



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )

Thursday, the Third day of December Two Thousand and Twenty

PRESENT

**The Hon'ble Mrs.Justice R.THARANI**

CRL MP (MD) No.6130 of 2020  
IN  
CRL RC (MD) No.386 of 2020

THIRUMURUGAN @ KATTARI

... PETITIONER/PETITIONER/DEFENDANT

**Vs**

1 THE EXECUTIVE MAGISTRATE CUM  
DEPUTY COMMISSIONER OF POLICE,  
LAW AND ORDER,  
MADURAI CITY.

... 1<sup>st</sup> RESPONDENT/1<sup>st</sup> RESPONDENT

2 THE STATE REP. BY  
THE INSPECTOR OF POLICE,  
B3, THEPPAKULAM POLICE STATION,  
MADURAI CITY.

... 2<sup>nd</sup> RESPONDENT/2<sup>nd</sup> RESPONDENT/  
COMPLAINANT

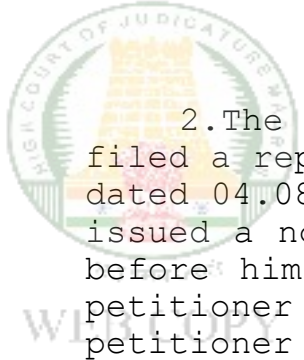
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the order passed in MC.1545/Ni.Sa.NA.and KA.Tu.A/M.MA/2019 dated 08.06.2020 by the 1<sup>st</sup> respondent and enlarge the petitioner on bail till pending disposal of the above revision.

**Prayer in CRL RC (MD) No.386 of 2020:**

To call for the records relating to the order passed in MC.1545/Ni.Sa.NA.and KA.Tu.A/M.MA/2019 dated 08.06.2020 by the 1<sup>st</sup> respondent detaining the petitioner and to set aside the same as illegal.

**Order :** This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.V.VISHNU, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondents, the Court made the following order:-

This petition has been filed to suspend the order passed by the first respondent in M.C.No.1545/Ni.Sa.NA&KA.Tu.A/M.MA/2019 dated 08.06.2020, till the disposal of the revision.



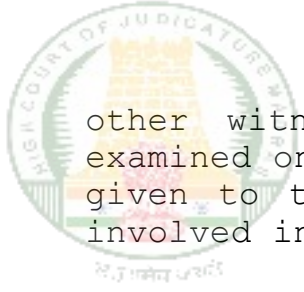
2.The case against the petitioner is that the first respondent filed a report in report no.74 of 2019 under Section 110 of Cr.P.C., dated 04.08.2019 before the second respondent. The second respondent issued a notice on 15.05.2020 calling upon the petitioner to appear before him on 18.05.2020. On 19.05.2020 at about 04.00 p.m., the petitioner executed a bond in M.C.No.1545 of 2019. Subsequently, the petitioner involved in an offence in Crime No.687 of 2020 under Section 392, 397 and 506(ii) of IPC. Based on the report filed by the second respondent, the first respondent has issued PT warrant to the petitioner and based on warrant, the first respondent passed the impugned order under Section 122(1)(b) r/w. 117 of Cr.P.C., directing the petitioner to be in custody for 11 months and 11 days. Against the order, the petitioner has filed this revision.

3.On the side of the petitioner, it is stated that the Deputy Commissioner is not having the authority to pass an order under Section 122(1) of Cr.P.C. All the procedures are violated and that the order was passed on the same date of notice. No legal aid assistance was given to the petitioner and prayed that the impugned order to be set aside.

4.On the side of the prosecution, it is stated that the Deputy Commissioner is having the power to pass order under Section 122(1) of Cr.P.C. So far the power of the Deputy Commissioner was not set side by any order. The matter was placed before the larger bench to decide the power of the Deputy Commissioner. Sufficient opportunity was given to the petitioner. Notice was issued to him on 30.05.2020 to appear before the first respondent on 02.06.2020. The witnesses were examined on the request of petitioner. The petitioner cross examined one of the witnesses on that date and prayed time for cross examination of other witness and the case was adjourned. Again on 05.06.2020, at the request of the petitioner, the matter was adjourned to 08.06.2020. The petitioner cross examined witnesses, After the completion of the enquiry, the impugned order was passed by the first respondent. There is no violation of any procedures.

5.It is further stated that the petitioner is having three more previous cases in Crime No.1071 of 2017 under Sections 120(b), 147, 148, 341, 307, 302 r/w. 149 of IPC, in Crime No.1273 of 2017 under Section 120(b), 147, 148, 342, 307, 302 @ 324, 307, 302 and 34(a) of IES Act and in Crime No.52 of 2019 under Section 147, 148, 120(b), 341, 302 of IPC and Section 3 of TNPPDL Act and Section 3(b) of IES Act and he raised objections to the petition.

6.It is seen that the power of the Deputy Commissioner to pass an order under Section 122(1)(b) of Cr.P.C., is pending for disposal before the larger bench. The notice was sent to the petitioner on 30.05.2020 and the copies were furnished to him on 02.06.2020. The petitioner has cross examined one of the witnesses. At request of the petitioner for cross examination of other witnesses, the matter was posted to 05.06.2020. The petitioner cross examined two witnesses on 05.06.2020 and prayed adjournment to cross examine some



other witness. Further on 08.06.2020, the petitioner has cross examined one more witnesses. It is seen that an opportunity is to be given to the petitioner to put forth his case. The petitioner is involved in three murder cases.

7. Considering the previous antecedents of the petitioner and the nature of the offences and also considering the period of incarceration of the petitioner, this Court is not inclined to suspend the order passed in M.C.No.1545/Ni.Sa.NA&KA.Tu.A/M.MA/2019 dated 08.06.2020 by the first respondent.

8. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-

03/12/2020

/ TRUE COPY /

/ /2020

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

**Note :** In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

**TO**

1. THE EXECUTIVE MAGISTRATE CUM  
DEPUTY COMMISSIONER OF POLICE,  
LAW AND ORDER, MADURAI CITY.
2. THE INSPECTOR OF POLICE,  
B3, THEPPAKULAM POLICE STATION,  
MADURAI CITY.
3. THE OFFICER INCHARGE,  
DISTRICT PRISON, THENI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER

IN

CRL MP (MD) No.6130 of 2020

IN

CRL RC (MD) No.386 of 2020

Date : 03/12/2020