



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated: 31.01.2020
CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.883 of 2019
and
Crl.MP(MD)No.10505 of 2019

Markanda Boopathy : Revision Petitioner/Detenu

Vs.

1.The Administrative Executive Magistrate/
Joint Commissioner of Police, Law and Order,
Madurai City,
Madurai.

2.The Inspector of Police,
E-2, Mathichiyam (L & O) Police Station,
Mathichiyam,
Madurai City.

3.The Superintendent of Prison,
Central Prison,
Madurai.

: Respondents/Complainants

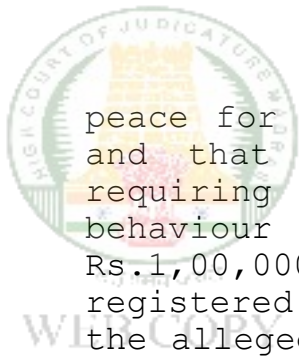
Prayer: Criminal Revision Petition has been filed under Section 397 and 401 of Criminal Procedure Code, against the order, dated 24.08.2019 passed by the first respondent in M.C.634/NI.Se.Na&Ka.Thu.Aa/Ma.Maa/2019 seeking to set aside the same.

For Revision Petitioner : Mr.N.Pragalathan
For Respondents : Mr.APG Ohm Chairma Prabhu
Government Advocate
(Criminal side)

O R D E R

This criminal revision is directed against the order, dated 24.08.2019 passed by the first respondent in M.C.634/NI.Se.Na&Ka.Thu.Aa/Ma.Maa/2019.

2.The case of the petitioner is that on 10.07.2019, he appeared before the 1st respondent in person in obedience to a summon, dated 08.07.2019 calling upon him to show cause why he should not enter into a bond with surety that he would keep the

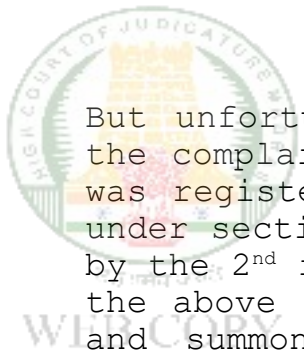


peace for a period of one year from the date of execution of bond and that on 12.07.2019, the first respondent passed an order requiring the petitioner to enter into execute a bond for good behaviour for one year and as such, he executed a bond for Rs.1,00,000/-. In the meanwhile, on 13.08.2019, a criminal case was registered against the petitioner by the 2nd respondent police for the alleged offence under sections 294(b), 323, 427 IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. Subsequently, without giving opportunity, the 1st respondent passed the order in M.C.634/NI.Se.Na&Ka.Thu.Aa/Ma.Maa/2019, dated 24.08.2019. Aggrieved over the same, the petitioner is before this court by way of filing this criminal revision.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

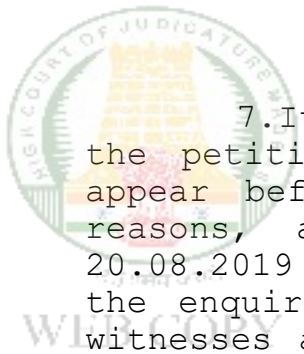
4.The main contention raised on the side of the petitioner/accused is that without giving reasonable opportunity to the petitioner, the first respondent passed the impugned order and thereby keep the petitioner in jail upto 11.07.2020 and the first respondent passed the order without following the procedures laid down by the High court as well the Hon'ble Apex court and the first respondent failed to furnish the materials sought to be relied upon including the statement of witnesses and the right of getting legal assistance and cross examining the witnesses were denied and on compulsion, the copy of the impugned order is served on the petitioner without furnishing the materials produced at the enquiry and the first respondent has no power to invoke section 122(1)(b) of the Criminal Procedure Code for violation of bond, which was executed by the petitioner under section 110(e) of the Code of the Criminal Procedure and the personal liberty of the petitioner was seriously affected by the impugned order and prays that the criminal revision has to be allowed.

5.On the other hand, the learned Government Advocate appearing for the respondents submitted that as per the direction of the prosecution, the petitioner herein frequently involved in the criminal cases and a report was initiated in Laid Information Report in LIR No.38 of 2019 under section 110 (e) of the Criminal Procedure Code on 03.07.2019 by the 2nd respondent herein and the same was brought to the knowledge of the predecessor for further necessary action and after perusal of the records produced by the 2nd respondent police, issued summons under section 111 of the Criminal Procedure Code and directed the petitioner to appear on 10.07.2019 and since the subsequent enquiry held on 12.07.2019 after due enquiry and after satisfaction, he directed the petitioner to execute a bond with two sureties for a sum of Rs.1,00,000/- each under section 117 of the Criminal Procedure Code in M.C.No.634 of 2019 for a period of one year for keeping peace and maintaining good behaviour and as per the direction, the petitioner executed a bond



But unfortunately, again he involved in a criminal offence and on the complaint made by one Amuthavalli, W/o.Meenakshisundram, a case was registered by the 2nd respondent police in Crime No.254 of 2019 under sections 204(b), 323, 427 IPC r/w TNPWH Act, 2002 and arrested by the 2nd respondent police and remanded to the judicial custody and the above said facts were brought and hence, PT warrant was issued and summons were issued to the witnesses and further, the 2nd respondent produced the petitioner through PT warrant as well witnesses before him on 20.08.2019 and since the subsequent enquiry held on 22.02.2019 and 24.08.2019 and after enquiry, it was found that the petitioner breached the conditions and it amounts to breach of bond and after enquiry the subsequent offence committed by the petitioner was convicted and order was passed in MC No.634/Ne.Sae.Na&Ja/Thu.Aa/M.MA/2019, dated 24.08.2019 and hence, reasonable opportunity was given to the petitioner before passing the final order and prays that the criminal revision has to be dismissed.

6.In this case, the petitioner herein frequently involved in the criminal cases and a report was initiated in Laid Information Report in LIR No.38 of 2019 under section 110 (e) of the Criminal Procedure Code on 03.07.2019 by the 2nd respondent herein and the same was brought to the knowledge of the predecessor for further necessary action and after perusal of the records produced by the 2nd respondent police, he issued summons under section 111 of the Criminal Procedure Code and directed the petitioner to appear on 10.07.2019 and since the subsequent enquiry held on 12.07.2019 after due enquiry and after satisfaction, he directed the petitioner to execute a bond with two sureties for a sum of Rs.1,00,000/- each under section 117 of the Criminal Procedure Code in M.C.No.634 of 2019 for a period of one year for keeping peace and maintaining good behaviour and as per the direction, the petitioner executed a bond on 12.07.2019 for keeping peace and maintaining good behaviour. But unfortunately, again the petitioner involved in a criminal offence and on the complaint made by one Amuthavalli, W/o.Meenakshisundram, a case was registered by the 2nd respondent police in Crime No.254 of 2019 under section 204(b), 323, 427 IPC r/w TNPWH Act 2002 and arrested by the 2nd respondent police and remanded to the judicial custody and the above said facts were brought and hence, PT warrant was issued and summons were issued to the witnesses and further, the 2nd respondent produced the petitioner through PT warrant as well witnesses before him on 20.08.2019 and since the subsequent enquiry held on 22.08.2019 and 24.08.2019 and after enquiry, it was found that the petitioner breached the conditions and it amount to breach of bond and after enquiry the subsequent offence committed by the petitioner was convicted and order was passed in MC No.634/Ne.Sae.Na&Ja/Thu.Aa/M.MA/2019, dated 24.08.2019 and hence, reasonable opportunity was given to the petitioner before passing the final order.



7.It is seen that the first respondent issued PT Warrant to the petitioner and summoned to the witnesses and asked them to appear before him on 16.08.2019 and due to some administrative reasons, again they are instructed to appear before him on 20.08.2019 and on 20.08.2019, the witnesses were examined and during the enquiry, the petitioner seeking time to cross examination of witnesses and hence, again the enquiry was adjourned to 22.08.2019 and after due enquiry, on 22.08.2019 he has issued the orders and hence, sufficient time was given to the petitioner and after due and proper enquiry, following all the procedures laid down in the law, passed the order and all the procedures were strictly followed by the first respondent and the order was passed in accordance with law.

8.Keeping in view the above facts, this court is of the considered view that the order passed by the 1st respondent does not suffer from any illegality and accordingly, it is confirmed.

9.In the result, this criminal revision fails and the same is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Administrative Executive Magistrate/
Joint Commissioner of Police, Law and Order,
Madurai City,
Madurai.

2.The Inspector of Police,
E-2, Mathichiyam (L & O) Police Station,
Mathichiyam,
Madurai City.

3.The Superintendent of Prison,
Central Prison,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.N.PRAGALATHAN, Advocate (SR-4190[F] dated 31/01/2020)

Order made in
Crl.R.C (MD) No.883 of 2019
31.01.2020

MK (14.02.2020) 4P 6C

<https://hcservices.ecourts.gov.in/hcservices/>