

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.02.2021
CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN
Criminal Revision Case No.75 of 2021
and CrI.M.P.No.1361 of 2021

Karthick @ Gate Karthick

..Petitioner/Accused

Vs.

1.The Executive Magistrate cum
the Deputy Commissioner of Police,
Washermenpet District. ..1st Respondent

2. State rep by its
The Inspector of Police (Law & Order)
H8-Thiruvottiyur Police Station,
Chennai District.
(Serial No.75 of 2020) ..2nd Respondent/Complainant

Criminal Revision Case filed under Section 397 read with
401 Cr.P.C, to set aside the detention order dated 11.01.2021
passed against the petitioner in the proceedings in
Rc.No.26/Sec.Pro/DCP WPT/2020 on the file of the Executive
Magistrate cum the Deputy Commissioner of Police, Washermenpet
District.

For Petitioner : Mr. S.Silambuselvan

For Respondents : Mr.A.Madhan
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed to set aside the
detention order dated 11.01.2021 passed against the petitioner
in the proceedings in Rc.No.26/Sec.Pro/DCP WPT/2020 on the file
of the Executive Magistrate cum the Deputy Commissioner of
Police, Washermenpet District.

2. Originally, the case was registered against the
petitioner in Crime No.1748/2016 for the offence punishable
under sections 147, 148, 341, 294(b), 324, 307, 506(ii) IPC
r/w.34 IPC, Crime No.1760/2016 for the offences punishable under
sections 341, 294(b), 336, 427, 392, 397, 506(ii) IPC, Crime
No.1088/2018 for the offence punishable under sections 294(b),
506(ii) IPC, Crime No.1156/2018 for the offences punishable
under sections 341, 387, 506(ii) IPC, Crime No.175/2019 for the

offences punishable under sections 147, 148, 341, 294(b), 324, 307, 506(ii) IPC and Crime No.5554 of 2020 for the offences punishable under sections 341, 294(b), 323, 307, 506(ii) IPC and the same was pending. In the mean time, petitioner was asked to execute a bond under section 110 Cr.P.C for good behaviour and during the said bond period, the petitioner alleged to have involved in other offence in Crime No.11 of 2021 for the offences punishable under section 294(b), 341, 384, 506(ii) IPC. Therefore he was arrested and remanded to judicial custody on 06.01.2021. Thereafter, show cause notice was issued to the petitioner as to why the bond should not be cancelled and he was produced on PT warrant. Subsequently the witnesses were examined on 11.01.2021 and final order passed by the 1st respondent under Section 122(1) Cr.P.C and canceled the bond and imposed the punishment to undergo imprisonment for remaining period of the bond. Challenging the said order, now the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that no document was produced, no opportunity was given and legal assistance have not been provided. Therefore the said order violated principles of natural justice and also constitutional principle which warrants interference.

4. The learned Government Advocate submits that the accused was in custody and produced on PT warrant. Subsequently he was produced on 11.01.2021 and thereafter, examined all the witnesses and after considering all the facts and circumstance, the authority passed the impugned order.

5. Heard and perused the records.

6. Though the petitioner was involved in five cases, he is a habitual offender. However when he was involved in other offences during the bond period, he was remanded to judicial custody and the witnesses were examined by producing him on PT warrant but no legal assistance was provided. It is settled provision of law that when the accused is in custody, legal assistance has to be provided for defending themselves, but in this case, no legal assistance was provided to the petitioner.

7. Admittedly, Executive Magistrate has not given a proper legal assistance to the petitioner, especially when evidence was recorded during the custody. Therefore, under these circumstances, this Court being not satisfied with the order passed by the learned Executive Magistrate, is inclined to remand back the matter with a direction to provide opportunity to the petitioner to get a legal assistance. If he failed to engage a counsel on his own, the Executive Magistrate is directed to approach the Legal Services Authority and provide

competent legal aid counsel to defend the case and dispose the case within a period of two months in accordance with law.

8. With the above direction, this Criminal Revision case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Executive Magistrate cum
the Deputy Commissioner of Police,
Washermenpet District.
2. The Inspector of Police (Law & Order)
H8-Thiruvottiyur Police Station,
Chennai District.
3. The Public Prosecutor,
High Court, Madras.

AKM/18.02.21/3P-5C/

Crl. R.C. No.75 of 2021
12.02.2021

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