

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.59 of 2021 and  
CRL.M.P.No.1062 of 2021

Prasanth

... Petitioner/Accused

.Vs.

1. The Executive Magistrate cum  
Deputy Commissioner of Police  
Washermenpet, Chennai.
2. State Inspector of Police (L & O),  
N-4 Fishing Harbour Police Station,  
Chennai 13. ... Respondents/Complainants

PRAYER : Criminal Revision case filed under Sections 397 & 401 or Cr.P.C. to call for the records on the file of the Executive Magistrate Cum Deputy Commissioner of Police, Washermenpet in M.P.No.02 of 2021 in R.C.No.712/Sec.Pro/DCP WPT/2020 in N2 P.S.S1.No.51/2020 U/s.107 of Cr.P.C. dated 11.01.2021 and set aside the order dated 11.01.2021.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.K.Madhan (Criminal side)  
Government Advocate

O R D E R

Initially, the respondent police registered several cases against the petitioner in CR.Nos.765/2017, 1306/2020, 25/2019, 465/2014, 872/2014 and 304/2014 and subsequently proceedings were initiated under Section 107 Cr.P.C and the petitioner was directed to appear before the Executive Magistrate cum Deputy Commissioner, Washermenpet on 11.01.2021 and on 14.12.2020, the petitioner was asked to execute a bond for keeping peace and maintaining good behaviour and on execution of bond, he was released on bail. One of the conditions mentioned in the bond is that if he has breaches the bond, the same would be cancelled and he has to undergo the punishment until the expiry of the bond. Subsequently, the second respondent police registered a case against the petitioner in Cr.No.1328/2020 for the offences

punishable under Sections 341, 294(b), 397 and 506 (ii) I.P.C. and he was arrested on 26.12.2020 and the proceedings under Section 107 Cr.P.C. was initiated and also he was produced on P.T. warrant on 26.12.2020. Subsequently after examining the witnesses passed the order under Section 122 Cr.p.C. on 11.01.2021 sentencing the petitioner until the expiry of bond period. Challenging the said order, the petitioner is before this Court.

2. The learned counsel for the petitioner would submit that the petitioner has been falsely implicated and without giving an opportunity to the petitioner to defend him, the bail bond was cancelled by the learned Executive Magistrate cum Deputy Commissioner of Police and thereby he is retained in judicial custody. He therefore prays to set aside the order passed by the learned Executive Magistrate cum Deputy Commissioner of Police.

3. The learned Government Advocate (Crl.side) would submit that he was produced before the Executive Magistrate cum Deputy Commissioner of Police on P.T. Warrant, which authority after examining the witnesses has passed the dated 11.01.2021 and therefore there is no question of opportunity not being given to the petitioner.

4. A perusal of the order dated 11.01.2021 shows that witnesses were examined and during the custody of the petitioner, the first respondent ought to have given opportunity to the petitioner to engage a counsel on his own and if he failed to engage counsel he should have approached the concerned Legal Services Authority to appoint competent counsel to defend the case of the petitioner. But, in the case on hand, the first respondent has not taken any steps for providing legal assistance to the petitioner and therefore the petitioner is very much prejudiced without legal assistance being provided to him before passing final order. Therefore, under these circumstances, this Court is inclined to set aside the order passed by the first respondent.

5. Accordingly, the order passed by the first respondent dated 11.01.2021 is set aside and the matter is remanded back to the first respondent for fresh consideration and the first respondent is directed to give opportunity to the petitioner to engage counsel on his own to prosecute his case and if the petitioner failed to engage counsel on his own, the first respondent is directed to approach the Legal Services authority to appoint legal aid counsel to defend the case of the petitioner. Thereafter, he is directed to proceed in accordance with law and dispose of the case, within a period of two months.

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

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

1. The Executive Magistrate cum  
Deputy Commissioner of Police  
Washermenpet, Chennai.
2. State Inspector of Police (L & O),  
N-4 Fishing Harbour Police Station,  
Chennai 13.
3. The Secretary,  
Legal Service Authority,  
Chennai.
4. The Public Prosecutor,  
High Court, Madras.

Cr1.R.C.No.59 of 2021

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srg 11/02/2021

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