

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.82 of 2021 and

Crl.M.P.No.1532 of 2021

Jayaraman

... Petitioner/Accused

.Vs.

1. The Sub Divisional Executive Magistrate cum Sub-Collector,
Kallakurichi Sub-Division,
Kallakurichi District.

2. Inspector of Police,
Kachirapalayam Police Station,
Kallakurichi District.

... Respondent/
Complainant

PRAYER : Criminal Revision case filed under Sections 397 & 401 of Cr.P.C. to call for the records and set aside the order made in Na.Ka.A3/1326/2020 dated 19.01.2021 on the file of Sub Divisional Executive Magistrate cum Sub-Collector, Kallakurichi Sub-Division, Kallakurichi District.

For Petitioner : Mr. S.Sasikumar

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

O R D E R

This Criminal Revision has been filed challenging the order of the Sub Divisional Executive Magistrate cum Sub-Collector, Kallakurichi Sub-Division, Kallakurichi District in Na.Ka.A3/1326/2020 dated 19.01.2021.

2. The first respondent passed an order under Section 122 (1) Cr.P.C. cancelling the bond executed by the petitioner under Section 110 Cr.P.C. for maintaining good behavior and imposed a sentence for remaining period of bond. Challenging the said order the petitioner is before this Court.

3. The case of the prosecution is that initially the petitioner was involved in Cr.Nos.728/2017, 636, 531/2017, 94/2018, 721/2018, 163/2019 & 207/2020. Subsequently, the petitioner/accused executed a bond under Section 110 Cr.P.C. for maintaining peace and good behaviour and during the bond period, the petitioner alleged to have involved in Crime No.16 of 2021 for the offence punishable under Sections 4 (1)(aa) and 4 (1-A) TNP Act. Therefore, the second respondent sent a report to the first respondent on 12.01.2021 to take necessary action against the petitioner under Section 122 (1) (b) Cr.P.C., based on which the first respondent passed the detention order on 19.01.2021.

4. Heard both sides. Perused the materials available on record.

5. A careful perusal of entire records would go show that without issuing show cause notice and even without conducting enquiry, the impugned order came to be passed, which shows that the first respondent has not applied his mind and mechanically passed the order. It is the duty of the first respondent to give opportunity to the petitioner to engage a counsel on his own and if he fails to engage, then the first respondent should have approached the concerned District Legal Services Authority to extend legal assistance to the petitioner. But, the said procedure has not been followed in this case.

6. In view of the same, this Court is inclined to set aside the order passed by the first respondent dated 19.01.2021 and accordingly the same is set aside and the matter is remitted back to the first respondent. The first respondent is directed to give opportunity to the petitioner to engage counsel on his own, if he fails to engage counsel on his own, the first respondent is directed to make suitable arrangements to engage legal aid counsel through the concerned District Legal Services Authority and dispose of the matter on merits and in accordance with law.

With the above directions, this Criminal Revision is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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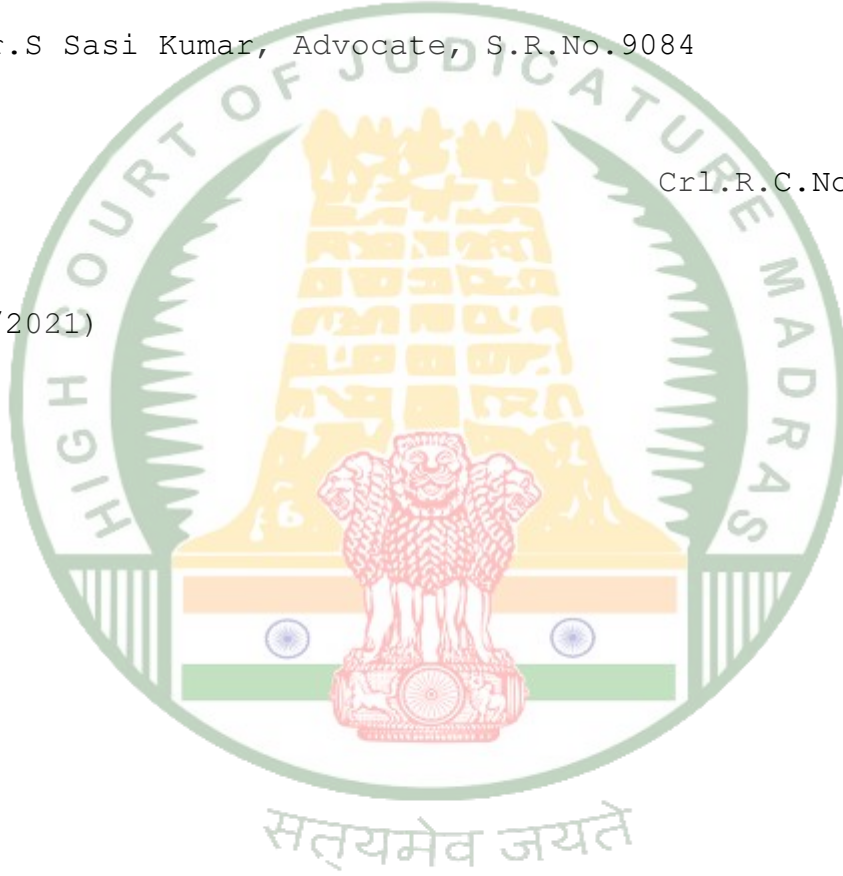
To

1. The Sub Divisional Executive Magistrate cum Sub-Collector,
Kallakurichi Sub-Division,
Kallakurichi District.
2. The Inspector of Police,
Kachirapalayam Police Station,
Kallakurichi District.
3. The Public Prosecutor
High Court, Madras-600 104.

+1cc to Mr.S Sasi Kumar, Advocate, S.R.No.9084

Cr1.R.C.No.82 of 2021

PPA (CO)
NRA (19/02/2021)



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