

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.81 of 2021 and

Crl.M.P.No.1527 of 2021

Siva @ Sivakumar

... Petitioner

.Vs.

1. The Executive Magistrate cum
Deputy Commissioner of Police
St. Thomas Mount, Chennai.

2. State Inspector of Police
S-6, Sankar Nagar Police Station,
Chennai-75.

... Respondents

PRAYER : Criminal Revision case filed under Sections 397 & 401 of Cr.P.C. to call for records on the file of the Executive Magistrate cum Deputy Commissioner of Police, St., Thomas Mount in M.P.No.01 of 2021 in S6 Sankar Nagar P.S. SL.No.37/2020 U/s. 110 of Cr.P.C. in Na.Ka.En.250/Neer.Se.Nadu/Ka.Dhu.Aa/St., Thomas Mount District /2020 dated 29.01.2021.

For Petitioner : Ms.M.Kokila

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 Executive Magistrate cum Deputy Commissioner of Police, St., Thomas Mount in M.P.No.01 of 2021 in S6 Sankar Nagar P.S.SL.No.37/2020 in Na.Ka.En.250/Neer.Se.Nadu/Ka.Dhu.Aa/St., Thomas Mount District /2020 dated 29.01.2021.

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 already the petitioner involved in 17 cases in Cr.Nos.65/2014, 1439/2015, 1605/2015, 2821/2015, 1818/2015, 2122/2016, 2252/2016, 3228/2016, 538/2018, 890/2018, 891/2018, 822/2019, 1275/2019, 25/2020, 589/2020, 590/2020 and 01/2021 for various offences. 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.01 of 2021 for the offence punishable under Sections 8(c), 20(b), (ii) (B) NDPS Act and therefore he was arrested on 01.01.2021 and remanded to judicial custody. Subsequently, he was summoned for enquiry and P.T. Warrant was issued on 22.01.2021 and based on which, he was produced before the first respondent on 29.01.2021 and the first respondent after examining all the witnesses and passed the impugned order on the same day.

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

5. The fact remains that when the petitioner is in custody he was issued P.T. Warrant on 22.01.2021, based on which he was produced before the first respondent on 29.01.2021. The first respondent examined the witnesses and passed an order on the same day, which shows that the first respondent has not applied his mind and mechanically passed the order, when the petitioner/accused was on custody. 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 approach 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 29.01.2021 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 do so, the first respondent is directed to make suitable arrangements to engage legal aid counsel through the concerned District Legal Services Authority and dispose the matter 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 VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Magistrate cum
Deputy Commissioner of Police
St. Thomas Mount, Chennai.
2. The Inspector of Police
S-6, Sankar Nagar Police Station,
Chennai-72.
3. The Public Prosecutor,
HighCourt, Madras 104.

PPA(CO) (IT)
SM/19/02/2021



Crl.R.C.No.81 of 2021

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