

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.220 of 2021 &
Crl.M.P.No.4979 of 2021

Mahesh ... Petitioner/Accused

...vs...

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

2.State by,
The Inspector of Police (Law & Order),
H8-Thiruvottiyur Police Station,
Chennai District.2nd Respondent/Complainant
(Serial No.67 of 2020)

Criminal Revision Case filed under Section 397 read with
401 Cr.P.C, to call for the records pertaining to the order
dated 24.03.2021 passed against the petitioner in M.P.No.22 of
2021 in LIR No.24/Sec.Pro/DCP WPT/2020, on the file of the
Executive Magistrate cum the Deputy Commissioner of Police,
Washermenpet.

For Petitioner : Mr.S.Silambuselvan

For Respondents : Mr.K.Mathan
Government Advocate (Crl.Side)

WEB COPY
O R D E R

This Criminal Revision Case has been filed against the
order dated 24.03.2021 passed in M.P.No.22 of 2021 in LIR
No.24/Sec.Pro/DCP WPT/2020, on the file of the first
respondent, in and by which, the bail bond executed by the
petitioner was cancelled and also directed the petitioner to
undergo imprisonment for the remaining period in the bond
period.

2. The case of the petitioner is that while the second
respondent-Police was at regular patrolling, the petitioner
was stands by suspicious and he was arrested and questioned

and the second respondent initiated the proceedings under Section 107 of Cr.P.C. As per the proceedings, the petitioner executed a bond under Section 110 Cr.P.C. During the said bond period, the petitioner violated the proceedings and involved in another case in Crime No.121 of 2021 for the offence under Section 294(b), 341, 323, 324, 307 and 506(ii) IPC. Thereafter, the first respondent initiated action against the petitioner under Section 122(1)(b) Cr.P.C for the breach of bond executed by the petitioner under Section 110 Cr.P.C. Challenging the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner was not involved in any offence and a false complaint has been foisted against him. The first respondent without affording any opportunity to the petitioner and without examining the witnesses, passed an order under Section 122(1)(b) Cr.P.C and cancelled the bail bond executed by the petitioner and imposed sentence of imprisonment for the remaining period.

4. The learned Government Advocate (Crl.Side) would submit that after providing sufficient opportunity only, the petitioner was produced before the second respondent for enquiry. At the time of trial, the petitioner has not raised any request regarding legal assistance, but, now, the petitioner has raised the said objection. Hence, there is no merit in this case and the same may be liable to be dismissed.

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

6. Admittedly, the petitioner was arrested in suspicious and on execution of bail bond he was involved in another case in Crime No.121 of 2021 for the offence under Section 294(b), 341, 323, 324, 307 and 506(ii) IPC. Thereafter, the second respondent initiated action against the petitioner under Section 122(1)(b) of Cr.P.C for the breach of bond executed under Section 110 Cr.P.C.

7. On a careful perusal of the records, it is seen that on Prisoner's Transit Warrant, the petitioner was summoned before the first respondent on 22.03.2021, however, no opportunity was provided to the petitioner to engage a counsel, and passed the impugned order on 24.03.2021. It is settled proposition of law, the accused, who is in custody, has to be provided with legal assistance by engaging a counsel on his own. If the petitioner is not in a position to engage a counsel on his own, it is the bounden duty of the respondents/Court to provide legal assistance through Legal Services Authority. In this case, the first respondent ought to have offered adequate time to engage a counsel to defend him or engage a counsel through Legal Services Authority.

8. In such view, the order passed by the first respondent dated 24.03.2021 is hereby set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to issue fresh summons to the witnesses and also provide legal assistance to the petitioner through the Legal Services Authority, if the petitioner is not in a position to engage a counsel on his own and dispose of the case in accordance with law. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The petitioner shall co-operate with the respondents for enquiry.

9. With the above direction, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

r n s

To

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

Criminal Revision Case No.220 of 2021 &
Crl.M.P.No.4979 of 2021

VBM(CO)
GMY (07/07/2021)