

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.10964 of 2021

and

Crl.M.P.No.6501 of 2021

Thamilselvan

... Petitioner

Versus

1.The State rep.by
Sub Divisional Magistrate cum
and Sub Collector,
Perambalur District.

2.The State rep.by
The Inspector of Police,
Perambalur Police Station,
Perambalur &
Chennai.

3.The Superintendent,
Central Prison,
Thirucirappalli,
Trichy District.

.... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in M.C.No.13 of 2020, dated 05.03.2021 passed by the first respondent and quash the same.

For Petitioner : Mr.D.Arun

For Respondents: Mr.A.Damodharan,
Government Advocate (Crl.side)

ORDER

The petitioner, who has been detained in prison, pursuant to the order passed by the Sub-Divisional Magistrate cum Sub-Collector, Perambalur District in M.C.No.13 of 2020, dated 05.03.2021, has filed this petition.

2.The contention of the petitioner is that the petitioner was called by the first respondent under Section 110 of Cr.P.C., to execute a bond of Rs.1 Lakh with two sureties each for Rs.50,000/- to keep good behaviour for a period of one year. The petitioner appeared on 02.07.2020 and executed the bond, thereafter, the respondent/police registered a case against the petitioner in Crime No.297 of 2021 for the offences

under Sections 147, 148, 294(b), 323, 324, 341 and 506(ii) of IPC., on 03.03.2020. After registering the case, the petitioner was arrested on 03.03.2021. Thereafter, the proceedings in M.C.No.13 of 2020 was quashed by this Court on 08.09.2021 in Crl.O.P.No.08.09.2020, thereafter, he was released on 14.09.2020. Thereafter, again the petitioner was detained in the same M.C.No.13 of 2020, hence, the impugned order is illegal and improper.

3.The learned Government Advocate (Crl.side) appearing for the respondents submitted that based on the order dated 05.03.2021 of the Sub-Divisional Magistrate cum Sub-Collector passed in M.C.No.13 of 2020, the petitioner was detained for violation of Section 122(1) (b) of Cr.P.C., and it is proper.

4.Considering the rival submissions, this Court perused the materials. It is seen that on 08.09.2020, this Court quashed the proceedings in M.C.No.13 of 2020 in Crl.O.P.No.12883 of 2020. Thereafter, again the Sub-Divisional Magistrate cum Sub-Collector on the same M.C.No.13 of 2020, dated 05.03.2021 had passed a detention order against the petitioner, which is per-se illegal and improper. The Sub-Divisional Magistrate cum Sub-Collector ought to have perused the records and files, pertaining to the petitioner and thereafter, passed an order. The impugned order only reflects the perfunctory manner, in which, the said Sub-Divisional Magistrate cum Sub-Collector passed the order, curtailing the liberty and fundamental rights of the petitioner, cannot be done in a causal manner. The act of the Sub-Divisional Magistrate is condemnable. In any event the impugned order cannot with stand the Judicial scrutiny and it is not legally sustainable.

5.In view of the same, this Court is inclined to quash the order passed by the Sub-Divisional Magistrate cum Sub-Collector, which has been passed without application of mind, hence the order dated 05.03.2021 passed in M.C.No.13 of 2020 is hereby quashed and the petitioner is directed to be released from the prison forthwith, if he is not otherwise wanted in any other case.

6.With the above direction, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

klt

To

1.The Sub Divisional Magistrate cum
and Sub Collector,
Perambalur District.

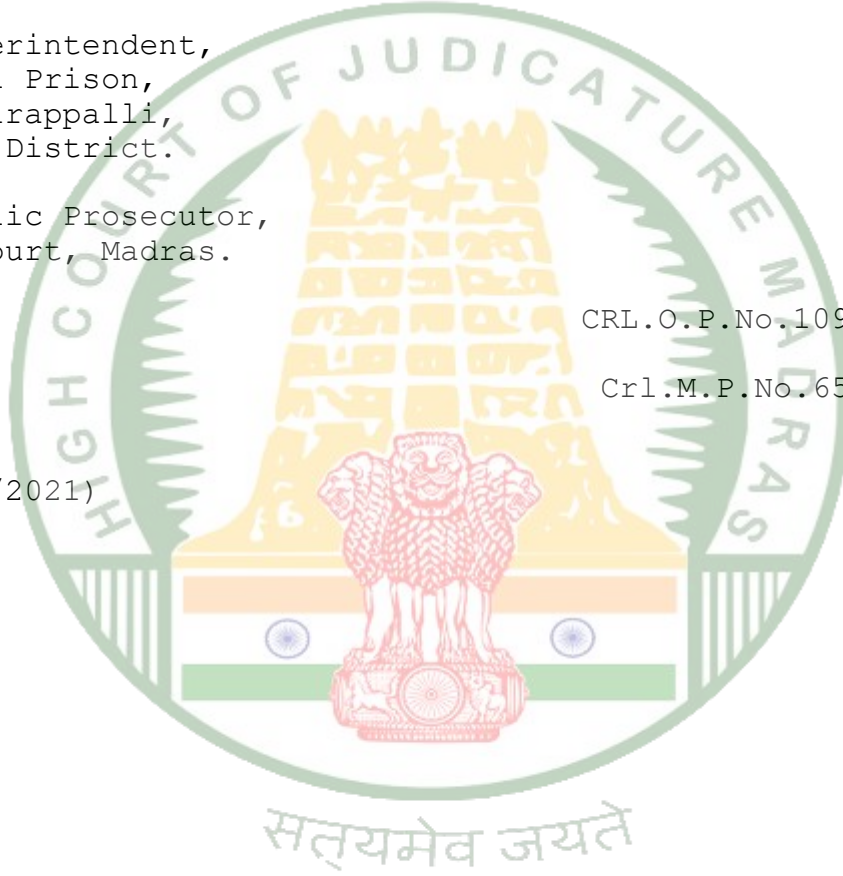
2.The Inspector of Police,
Perambalur Police Station,
Perambalur &
Chennai.

3.The Superintendent,
Central Prison,
Thirucirappalli,
Trichy District.

4.The Public Prosecutor,
High Court, Madras.

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SR II(CO)
GMY(30/06/2021)



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