

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.352 of 2021
and Crl.M.P.No.6044 of 2021

Jebasekar

... Petitioner

..vs..

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

2.The State Represented by
Inspector of Police,
S-14, Peerankaranani Police Station,
Chennai.

... Respondents

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to set aside the impugned order dated 12.02.2021 in Mis.Petition.No.03 of 2021 in Na.Ka.No.276/Nir.Se.Nadu.Kaa.Thu.Aa.Tho.Ma/2020 in S-14 Peerankaranani Kaa.Ni Serial No.53/Sec.Pro/2020 under Section 110 Cr.P.C passed by the 1st respondent.

For Petitioner : Mr.G.Balamanikandan

For Respondents: Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 12.02.2021 passed in Mis.Petition.No.03 of 2021 in Na.Ka.No.276/ Nir.Se.Nadu.Kaa.Thu.Aa.Tho.Ma/2020 in S-14 Peerankaranani Kaa.Ni Serial No.53/Sec.Pro/2020 on the file of the first respondent police.

2.The case of the prosecution is that the petitioner was alleged to have involved a case in Crime No.2388 of 2015 for the offence punishable under Sections 341, 294(b), 323, 324 and 506(ii) IPC on the file of the second respondent/police. On receipt of the summons, the petitioner appeared before the first respondent and executed a bond under Section 110 Cr.P.C. to keep good behaviour for a period of one year. During the said bond period, based on the complaint given by one Senthil, the second respondent police registered a case in Crime No.52 of 2021 for the offence punishable under Sections 341, 294(b), 385 and 506(ii) IPC against the petitioner and

he was arrested and remanded to judicial custody on 30.01.2021. While, the petitioner was in custody, on Prisoner's Transit Warrant, he was produced before the first respondent on 12.02.2021. After due enquiry, the first respondent initiated proceedings under Section 122 (1) (b) of Cr.P.C and cancelled the bail bond executed under Section 110 Cr.P.C and directed the petitioner to undergo imprisonment for the remaining bond period. Challenging the said impugned order, the petitioner is before this Court.

3.The learned counsel for the petitioner would submit that while, the petitioner was in custody in Crime No.52 of 2021, on Prisoner's Transit Warrant, he was produced before the first respondent and without affording any opportunity to the petitioner to engage a counsel to defend his case and the first respondent passed the order under Section 122(1)(b) Cr.P.C. Therefore, the impugned order passed by the first respondent is liable to be set aside.

4.The learned Government Advocate (Crl.Side) would seek time to get instructions. However, on a careful perusal of the records, it is seen that on Prisoner's Transit Warrant, the petitioner was summoned before the first respondent, however, no opportunity was provided to the petitioner to engage a counsel to defend his case.

5.It is a 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 a legal assistance through Legal Services Authority. This Court, time and again, gave directions to the authorities concerned to provide sufficient opportunity to the petitioner to defend his case. In the present case, the first respondent ought to have offered adequate time to the petitioner to engage a counsel on his own or to engage a counsel through Legal Services Authority, which violates principles of natural justice.

6.In such a view, the order passed by the first respondent dated 12.02.2021 is hereby set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to 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 as early as possible. The petitioner shall co-operate with the respondents for enquiry.

7.With the above direction, this Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

Chennai is directed to release the petitioner, if he is not required in any other case.

9. The Commissioner of Police, George Town, Chennai is directed to give instructions to all the officers, who are under his control, to follow the instructions given by this Court in paragraph No.5 of this order, strictly. If any officer fails to follow the said instructions, he can take departmental action against them and also file action taken report before this Court. Failing which, the Commissioner of Police, George Town, Chennai shall appear before this Court and give explanation.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

ms

To

- 1.The Executive Magistrate-cum-
Deputy Commissioner of Police,
St.Thomas Mount District,
Chennai.
- 2.The Inspector of Police,
S-14, Peerkankaranani Police Station,
Chennai.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

Copy to:

- 1.The Commissioner of Police,
George Town, Chennai.
- 2.The Secretary,
Legal Service Authority,
High Court, Chennai.
- 3.The Section Officer,
Criminal Section,
High Court, Madras.

Criminal Revision Case No.352 of 2021
and CrI.M.P.No.6044 of 2021