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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.466 of 2019
and
Crl.M.P.No.6726 of 2019

Dinesh @ Kadhu Dinesh

... Petitioner/Accused

..VS..

1. State rep.by
The Inspector of Police,
T-6, Avadi Police Station,
Chennai.

...1st Respondent/Complainant/2nd Respondent

2. The Deputy Commissioner of Police,
Ambattur, Chennai - 54.

Criminal Revision Case filed under Section 397 and 401 Cr.P.C, to call for the records in the impugned order passed by the 2nd respondent on the basis of the requisition of the 1st respondent herein in M.P.No.1 of 2019 in C.No.815/Sec.Pro/D.C.AMB/2018 in T-6 Avadi Police Station Crime No.112 of 2018 under Section 107 Cr.P.C dated 26.04.2019 and to set aside the same.

For Petitioner : No appearance

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 26.04.2019 passed in M.P.No.1 of 2019 in C.No.815/Sec.Pro/ D.C.AMB /2018 on the file of the second respondent.

2. When the matter was taken up for hearing on 27.07.2021, there was no representation for the petitioner. Even today,



when the matter is taken up for hearing, there is no representation for the petitioner.

3. Heard the learned Government Advocate (Crl.Side) for the respondents.

4. The case of the prosecution is that the petitioner executed a bond for good behaviour under Section 107 Cr.P.C on 23.11.2018, during the said bond period, the first respondent police registered a case in Crime No.330 of 2019 for the offence punishable under Sections 294(b), 323, 324, 506(ii) IPC and Section 3 of TNPPDL Act against the petitioner and he was arrested and remanded to judicial custody on 15.04.2019. While, the petitioner was in custody, on Prisoner's Transit Warrant, the petitioner was produced before the second respondent on 22.04.2019. After due enquiry, the second respondent passed an order under Section 122 (1) (b) of Cr.P.C and cancelled the bail bond executed under Section 107 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.

5. It is seen from the records, the first respondent police registered the case in Crime No.112 of 2018 and after execution of bail bond on 23.11.2018, the petitioner was involved in another case in Crime No.330 of 2019 for the offence punishable under Sections 294(b), 323, 324, 506(ii) IPC and Section 3 of TNPPDL Act. While, the petitioner was in judicial custody, the first respondent police initiated action against the petitioner under Section 122(1) (b) of Cr.P.C for the breach of bond executed under Section 107 Cr.P.C.

7. On a careful perusal of the records, it is seen that the petitioner was summoned before the first respondent on Prisoner's Transit Warrant, however, no opportunity was provided to the petitioner to engage a counsel.

8. It is a well 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 respondent police/Court to provide 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 neither has given an opportunity to the petitioner to engage a counsel on his own nor to engage a counsel through Legal Services Authority, which amounts to denial of justice.



9. In such a view, the order passed by the second respondent dated 26.04.2019 is hereby set aside and the matter is remitted back to the first respondent for fresh consideration. The second 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.

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

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1. The Inspector of Police,
T-6, Avadi Police Station,
Chennai.
2. The Deputy Commissioner of Police,
Ambattur, Chennai - 54.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.
5. The Member Secretary,
Legal Service Authority,
Madras.
6. The Judicial Magistrate,
No.II, Poonamallee.



7. The Section Officer,
Criminal Section,
High Court, Madras.

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and Crl.M.P.No.6726 of 2019

RR (CO)
SU (17/08/2021)