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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.439 of 2021 &
Crl.M.P.No.7152 of 2021

Venkatesh @ Peeri Venkatesh

...Petitioner

Vs.

State rep.by the
Inspector of Police, (L & O),
S-14, Peerkankaranai Police Station,
Chennai - 600 063.

...Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to call for the records on the file of the Executive Magistrate cum Deputy Commissioner of Police, St. Thomas Mount District, in M.P.No.07 of 2021 in Na.Ka.En.394/Nir.Se.Nadu.Ka.Dhu.Aa.Pa.Tho.Ma/2021, dated 08.07.2021 and set aside the same.

For Petitioner : Mr.R.Krishnakumar

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

O R D E R

This Criminal Revision Case has been filed to set aside the order passed by the learned Executive Magistrate cum Deputy Commissioner of Police, St. Thomas Mount District in M.P.No.07 of 2021 in Na.Ka.En.394/Nir.Se.Nadu.Ka.Dhu.Aa.Pa.Tho.Ma/2021, dated 08.07.2021.

2. It is the case of the first respondent that the petitioner executed a bond for good behaviour under Section 110 of Cr.P.C. in Cr.No.472 of 2019, on 15.03.2021 and thereafter, the petitioner involved in other case in Crime No.303 of 2021 for the offence under Sections 47, 148, 341, 294(b), 324, 336, 397 and 506(ii) of IPC. Since the petitioner had indulged in the other offences immediately to the execution of bond in Cr.No.472



of 2019, the learned Executive Magistrate passed the order, detaining the petitioner till the expiry of the period of bond, by invoking Section 122 (1)(b) of Cr.P.C. Challenging the same, the accused has filed this Revision.

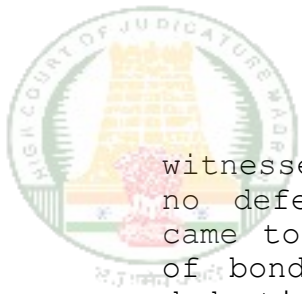
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3. The learned counsel for the petitioner would submit that a false case has been foisted against the petitioner and there is no cause of action against the petitioner and several accused have been involved in this case, whereas, the case was registered against the petitioner alone, who is innocent and no opportunity was given to the petitioner. Though at the time of chief examination, no counsel was appeared, subsequently, the petitioner engaged a counsel and no opportunity was given during cross examination and therefore, the learned counsel prays for setting aside the order passed by the learned Executive Magistrate.

4. The learned Government Advocate (Criminal Side) would submit that during the bail bond period, the petitioner involved in other case in Crime No.303 of 2021 and the petitioner was produced before the learned Executive Magistrate on 28.06.2021 on P.T.warrant and witnesses were examined and the petitioner engaged a counsel, but however, he has not cross examined, as he has no defence, therefore, the learned Executive Magistrate, on proper appreciation of materials, sentenced the petitioner to undergo imprisonment till the expiry of the bond period viz., till 15.03.2022, by invoking Section 122(1)(b) of Cr.P.C. for the breach of bond executed under Section 110 of Cr.P.C., and as such, no interference is required.

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

6. Admittedly, the petitioner executed a bond for good behaviour under Section 110 of Cr.P.C. on 15.03.2021. During the pendency of the said bail bond, the petitioner was involved other case in Crime No.303 of 2021 for the offence under Sections 47, 148, 341, 294(b), 324, 336, 397 and 506 (ii) of IPC and therefore, he was arrested and remanded into judicial custody on 21.05.2021, and thereafter, the respondent police initiated action against the petitioner under Section 122(1)(b) Cr.P.C and he was produced before the learned Executive Magistrate on 28.06.2021 on P.T. warrant and papers were served on him under Section 207 of the Code of Criminal Procedure and the petitioner was directed to appear on 08.07.2021. The witnesses were examined and one Bhuvanesh, the defacto complainant in Crime No.303 of 2021, was examined as P.W.2 and he has clearly spoken about the incidence and about the complaint given before the jurisdictional police and subsequently, the petitioner also engaged counsel, however



witnesses were not cross examined by the counsel, as there was no defence, and thereafter, the learned Executive Magistrate came to the conclusion that the petitioner had committed breach of bond and sentenced him to imprisonment for 299 days after deducting 66 days and therefore, this Court is of the view that sufficient opportunity was given to the petitioner.

7. In view of the above, this Court does not find any perversity or infirmity or illegality in the order passed by the learned Executive Magistrate and hence, the revision is liable to be dismissed, accordingly, it is dismissed. The petitioner is directed to take all his defence in Criminal Case No.303 of 2021. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

r n s

To

- 1.The Executive Magistrate cum
Deputy Commissioner of Police,
St. Thomas Mount District, Chennai.
2. The Inspector of Police, (L & O),
S-14, Peerankaranai Police Station,
Chennai - 600 063.
3. The Government Advocate (Criminal Side),
Madras High Court.
4. The Superintendent of Central Prison
Puzhal.

+1cc to M/s.R.Krishnakumar, Advocate, S.R.No.36638

CrI.R.C.No.439 of 2021 &
CrI.M.P.No.7152 of 2021

VSN-II (CO)
RGA (18/08/2021)