

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1136 of 2020
and Crl.M.P.Nos.7311/2020 & 8025 of 2020

Iyappan

... Petitioner/Accused

Versus

1.The Executive Magistrate cum Deputy
Commissioner of Police,
Triplicane,
Chennai-02.

2.The Inspector of Police,
F-5 Choolaimedu Police Station,
Chennai-600 094.

... Respondents/Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 r/w. 401 Cr.P.C seeking to call for the records pertaining to the judgement dated 29.09.2020 in M.P.No.08 of 2020 on the file of the 1st respondent in RC.No.132/Sec.Pro/DCP Triplicane 2020 on the file of 1st respondent in F-5 Choolaimedu PS.SI No.61/2020 u/s.107 Cr.P.C on the file of the 2nd respondent by convicting the petitioner for the offence under section 122(1)(b) of Cr.P.C and sentenced to undergo 346 days of imprisonment and set aside the same.

For Petitioner : Mr.S.Mohamed Ansar

For R1& R2 : Mr.R.Suryaprakash
Government Advocate

O R D E R

This Criminal Revision Petition has been filed seeking to call for the records pertaining to the judgement dated 29.09.2020 in M.P.No.08 of 2020 on the file of the 1st respondent in RC.No.132/Sec.Pro/DCP Triplicane 2020 on the file of 1st respondent in F-5 Choolaimedu PS.SI No.61/2020 u/s.107 Cr.P.C on the file of the 2nd respondent by convicting the petitioner for the offence under section 122(1)(b) of Cr.P.C and sentenced to undergo 346 days of imprisonment and set aside the same.

2. The petitioner is involved in several cases viz., Crime Nos. 561/2006, 1339/17, 407/2010, 427/2010, 467/10, 847/2010, 464/2011, 1029/2011, 1731/12, 793/2013, 1457/13, 145/14, 454/2014, 855/14, 883/14, 1024/15, 138/16, 393/2016, 446/18, 653/2010, 656/2010, 213/17, 1077/17, 1406/17, 1407/17, 2066/2017, 31/18, 316/18, 704/2018, 63/2019, 546/19, 11/2020, 236/2020 and 435/2020. During the pendency, the respondent police initiated proceedings under section 107 Cr.P.C and the petitioner executed a bond. During the bond period, he alleged to have involved in another case in Crime No. 497/2020 for the offences punishable under section 302 IPC. Therefore, he was initially arrested and initiated the proceedings under section 122(1)(b). The learned Magistrate has passed the order cancelling the bond and directed to undergo the punishment remaining period of 346 days. Challenging the said order, now the petitioner is before this Court by way of this Revision.

3. The learned counsel for the petitioner would submit that the petitioner was arrested only on the ground of suspicion and there is no eye witness in this case and now the charge sheet also filed. Therefore, the order passed by the Executive Magistrate is liable to be set aside.

4. The learned Government Advocate (Criminal Side) would submit that after executing the bond within 12 days, the petitioner has committed the ground case offence. Therefore he was arrested immediately and proceedings under section 122(1)(b) Cr.P.C., was passed. After giving opportunity to the petitioner and he himself given the confession statement before the Investigating officer in the ground case in Crime No. 497/2020 and investigation also completed, the said order was passed. At this stage, if he is released on bail, there is possibility of the petitioner being involved in the same offence. Therefore, in such circumstances, there is no procedural violation in the initiation of proceedings under Section 122(1)(b) Cr.P.C and the 1st respondent rightly canceled the bond and sentenced to undergo the remaining period of bond of 346 days. Challenging the same, the petitioner is before this Court.

5. Heard and perused the records.

6. Admittedly, the petitioner is alleged to have involved in several cases. During the pendency, the respondent police initiated proceedings under Section 107 Cr.P.C., and bond was executed by the petitioner for good behaviour. Within a month, the petitioner was involved in the ground case in Crime No. 497 of 2020. Therefore, the petitioner was arrested and initiated proceedings under section 122(1)(b) Cr.P.C., and cancelled the bond and imposed sentence to undergo the remaining period of bond. Even though the petitioner himself has given the

confession statement and charge sheet also filed, the innocence of the petitioner can be proved only at the time of the trial in the ground case. Prima facie, it is found that the petitioner has breached the condition stipulated in the bond executed by him for good behavior. Therefore the proceedings under section 122 (1)(b) Cr.P.C., has been initiated by the first respondent and passed the order by canceling the bond. Therefore there is no merit in the revision and it is liable to be dismissed. Accordingly, this Criminal Revision Petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mpa

To

1.The Executive Magistrate cum Deputy
Commissioner of Police,
Triplicane,
Chennai-02.

2.The Inspector of Police,
F-5 Choolaimedu Police Station,
Chennai-600 094.

Cr1.R.C.No.1136 of 2020

PVS (CO)
CB(26/02/2021)

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