



N THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.566 of 2021
and
Crl.MP.No.9446 of 2021

Kullan @ Santhoshkumar ... Petitioner
Vs.
1. The Taluk Administrative Magistrate cum
Revenue Tahsildar
Pollachi Taluk
Coimbatore District ... 1st Respondent
2. State rep by
The Inspector of Police
Pollachi Town East Police Station
Pollachi
Coimbatore District ... 2nd Respondent/
Petitioner

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. praying to set aside the order in Na.Ka.No.2880/2021/A3 vide an order dated 07.09.2021 on the file of the 1st respondent and allow the above Criminal Revision Case.

For Petitioner : Mr.S.N.Arunkumar
For Respondents: Mr.J.C.Duraiaraj
Government Advocate (Crl.Side)

O R D E R

The Criminal Revision Case has been filed seeking to set aside the order in Na.Ka.No.2880/2021/A3 dated 07.09.2021 on the file of the 1st respondent herein.

2. The petitioner had involved in Crime No.474 of 2012 for the offence under Section 457, 380 read with 511 IPC, Crime No.168 of 2014 for the offence under Sections 147, 148, 364, 342 and 302 IPC, Crime No.483 of 2012 for the offence under Section 379 IPC, Crime No.438 of 2018 for the offence under Section 294(B), 323, 324 and 506(ii) IPC and in Crime No.1140 of 2020 for the offence under Section 387 IPC. Therefore, the petitioner was asked to execute a bond under Section 109 Cr.P.C. for good behavior and accordingly he executed the same. Subsequently, the petitioner involved in another case in Crime No.403 of 2021 for the offences



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punishable under Sections 294(b), 448, 506(II), 109 IPC and Section 4 Tamil Nadu Prohibition of Harassment of Woman Act following which, he was arrested and remanded to judicial custody on 05.08.2021. Since, the petitioner breached the bond conditions executed under Section 109 Cr.P.C., the 1st respondent initiated proceedings under Section 122(1)(b) Cr.P.C. based on the report filed by the second respondent and while the petitioner was in custody, showcase notice was issued and subsequently, the petitioner was produced before the 1st respondent on 23.08.2021 and the impugned order was passed on 07.09.2021 by cancelling the bond executed by the petitioner on 12.07.2021 and sentenced him to undergo the remaining bond period. Challenging the said order of cancellation of bond, the present revision has been filed by the petitioner.

3. The learned Counsel for the petitioner would submit that when the petitioner was in judicial custody in the ground case, the impugned order has been passed and the petitioner was not given any opportunity to defend his case. Further, the petitioner was not given opportunity to engage a counsel and that the authorities also not provided him any legal assistant which violates constitutional rights. Therefore, the order passed by the 1st respondent is liable to be set aside.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner is a history sheeter and he violated the conditions in the bond executed by him under Section 109 Cr.P.C. and thereby, based on the report of the 2nd respondent, the 1st respondent initiated proceedings under Section 122 (1) (b) of Cr.P.C. and cancelled the bond executed by the petitioner under Section 109 Cr.P.C. after giving him sufficient opportunity. Therefore, there is no merit in the revision.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and also perused the materials available on record.

6. It is seen that the petitioner is a history sheeter and he has involved in many cases. Therefore, he was asked to execute a bond under Section 109 Cr.P.C. for good behavior and accordingly he executed the same and during the bond period, the petitioner involved in another case in Crime No.403 of 2021 for the offences punishable under Sections 294(b), 448, 506(II), 109 IPC and Section 4 Tamil Nadu Prohibition of Harassment of Woman Act following which, he was arrested and remanded to judicial custody. Since, the petitioner breached the bond conditions executed by him under Section 109 Cr.P.C., the 1st respondent initiated proceedings under Section 122(1)(b) Cr.P.C. based on the report filed by the second respondent and while the petitioner was in custody showcase notice was issued to the petitioner and subsequently, he was produced before the 1st respondent following which the impugned order



has been passed on 07.09.2021 by cancelling the bond executed by the petitioner under Section 109 Cr.P.C. Challenging the same, the petitioner has filed the present revision before this Court.

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7. A careful reading of the order passed by the 1st respondent shows that the order has been passed while the petitioner was in custody and the petitioner was not given any sufficient opportunity either to engage a counsel by himself or through Legal Services Authority.

8. In many cases, this Court on earlier occasions has given directions that when an accused is in custody and if any proceedings has to be initiated by any authority, sufficient opportunity should be given to the accused to defend his case by engaging a counsel by himself failing which, the authority or the Court concerned has to provide a Legal Aid Counsel through Legal Services Authority. Whereas, in this case, this Court finds that the authorities have deliberately not followed the directions of this Court and the impugned order has been passed by the 1st respondent while the petitioner was in custody and without giving him opportunity to engage a counsel to defend his case which violates the constitutional rights. Therefore, this Court is inclined to set aside the order passed by the 1st respondent.

9. Accordingly, the order in Na.Ka.No.2880/2021/A3 dated 07.09.2021 passed by the 1st respondent is set aside and the matter is remitted back to the 1st respondent. The 1st respondent is directed to initiate a fresh proceedings after giving sufficient opportunity to the petitioner to engage a counsel on his own or the 1st respondent has to provide him a Legal Aid Counsel through the District Legal Services Authority and dispose of the matter in accordance with law, after giving sufficient opportunity to the petitioner.

11. With the above observations, this Criminal Revision case is disposed of. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar



To

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1. The Taluk Administrative Magistrate cum
Revenue Tahsildar
Pollachi Taluk
Coimbatore District
2. State rep by
The Inspector of Police
Pollachi Town East Police Station
Pollachi
Coimbatore District
3. The Superintendent
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.

1 cc to M/s. S.N. Arunkumar, Advocate Sr.49135

Crl.R.C.No.566 of 2021

CNR(CO)
EU 27.09.2021