

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1263 of 2020 and
Crl.M.P.No.8868 of 2020

Murugan @ Baba Murugan,
S/o.Karupaiya.

... Petitioner

Vs.

1.The Executive Magistrate and
Deputy Commissioner of Police,
Madhavaram, Chennai.

2.The Inspector of Police (Law and Order),
M4 Redhills Police Station,
Chennai-52.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order in M.P.No.18 of 2020, dated 29.10.2020 R.C.No.407/Sec.Pro/DCP MVM/2020 by the Executive Magistrate and Deputy Commissioner of Police, Madhavaram, Chennai.

For Petitioner : Mr.M.Magesh

For Respondent : Mr.R.Suryaprakash
Government Advocate

ORDER

This Criminal Revision has been filed to set aside the order passed by the 1st respondent in M.P.No.18 of 2020 in R.C.No.407/Sec.Pro/DCP MVM/2020, dated 29.10.2020.

2.On 09.09.2020, the petitioner has appeared before the 2nd respondent and executed a bond under Section 107 Cr.P.C., for good behaviour and keeping peace for a period of one year. However, subsequent thereto, the petitioner has involved in another case, which was registered in Crime No.4964 of 2020, for offence under Section 8(c) r/w 20(b)(ii)(b) of NDPS Act. Thereafter, the proceedings under Section 122(1)(b) of Cr.P.C., has been initiated against the petitioner for violation of bond and detained the petitioner for 314 days.

3. According to the learned counsel for the petitioner, there is no previous case against the petitioner and he has no bad antecedents. There is only one case as against the petitioner, which is also a false case. The 1st respondent has neither provided legal assistance nor arranged free legal aid, it shows that there is a clear violation of Article 39(A) of Constitution of India, which gives right to a person alleged to have been involved in a criminal case. Therefore, the order passed by the 1st respondent is liable to be set aside.

4. The learned Government Advocate fairly submitted that the petitioner has only one previous case, however he has executed a bond in the said case in M4 Redhills Police Station, SI.No.95 of 2020 under Section 107 Cr.P.C. Subsequently, he violated the condition, thereafter, the first respondent initiated the proceedings under Section 122(1)(b) Cr.P.C., and the first respondent has given opportunity to the petitioner to defend his case and admittedly, there is no violation.

5. Heard and perused the records.

6. Admittedly, a circular was issued as against the petitioner in M4 Redhills Police Station, SI.No.95 of 2020 under Section 107 Cr.P.C. and subsequently, during the bond period, the petitioner alleged to have breached the condition imposed in the bond and hence, the proceedings under Section 122(1)(b) Cr.P.C., is initiated against the petitioner. On perusal of the records, it is seen that there is no legal assistance provided to the petitioner and therefore, the order passed by the 1st respondent is liable to be set aside.

7. Hence, the order dated 29.10.2020 in M.P.No.18 of 2020 in R.C.No.407/Sec.Pro/DCP MVM/2020 passed by the 1st respondent is set aside and the matter is remitted to the 1st respondent for fresh enquiry. The 1st respondent is directed to give opportunity to the petitioner to engage a counsel. In any case, if the petitioner is not in a position to engage a counsel, he can get assistance from the District Legal Services Authority and get a panel advocate from the legal aid and conclude the proceedings contemplated under law.

8.In the result, this Criminal Revision is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Executive Magistrate and Deputy Commissioner of Police, Madhavaram, Chennai.
- 2.The Inspector of Police (Law and Order), M4 Redhills Police Station, Chennai-52.
- 3.The Public Prosecutor, High Court, Madras.

Copy to

The Secretary,
District Legal Services Authority,
Chennai.

Cr1.R.C.No.1263 of 2020

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