

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1156 of 2020 and
Crl.M.P.No.8108 of 2020

Mr.Prabha @ Prabakaran

... Petitioner

Vs.

1. The Sub Divisional Magistrate and
Revenue Divisional Officer,
Tambaram,
Chengalpattu District.

2. The State rep. by its
Inspector of Police,
H-1, Otteri Police Station,
Kancheepuram District.
[Crime No:4255 of 2020]

... Respondents

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order of passed by the Sub Divisional Magistrate and Revenue Divisional Officer, Tambaram/first respondent herein in M.C.No:1403/2020/Aa dated 19.11.2020 and thereby acquit the revision petitioner.

For Petitioner :Mr.M.Ravikumar

For Respondents :Mr.K.Madhan
Government Advocate

W E B C O P Y
O R D E R

This Criminal Revision has been filed against the order of learned Sub Divisional Magistrate and Revenue Divisional Officer, Tambaram/first respondent herein in M.C.N:1403/2020/Aa dated 19.11.2020 and thereby acquit the revision petitioner.

2. The first respondent issued a proceeding under Section 122 (1) Cr.P.C. against the petitioner and cancelled the bond given by the petitioner under Section 110 of Cr.P.C. for the

reason that he committed breach of bond, because during that time the petitioner alleged to have involved in another case i.e., Crime No.4255 of 2020 registered under Sections 294 (b) & 506 (i) of I.P.C. Since he was in custody, he was produced before the first respondent, the said authority after recording confession statement of the petitioner and other witnesses, in connection with the aforesaid crime number, passed an order dated 19.11.2020 cancelling the bond and directed to undergo imprisonment for the remaining period of the bond. Challenging the said order the petitioner is before this Court.

3. A perusal of the records would go to show that no opportunity has been given to the petitioner to engage a counsel to defend his case and to cross examine the witnesses. When the petitioner was in custody, he should have given opportunity to engage the counsel to cross examine the witness and defend the case. The first respondent should have approached the District Legal Services Authority to provide legal assistance to the petitioner, who is in custody and that procedure has not been followed in this case. It is well settled proposition of law that if the accused is not in a position to engage the counsel to defend his case, the Court or the quasi judicial body who is invoking penal provision for imposing the punishment of sentence, should have given the opportunity by appointing the legal aid counsel, but the same has not been done. Therefore, the order passed by the first respondent dated 19.11.2020 is liable to set aside and accordingly the same is set aside.

4. In the result, the matter is remitted back to the first respondent to decide afresh after giving opportunity to the petitioner. The first respondent is directed to issue a fresh notice to the petitioner and direct the petitioner to engage a counsel to defend his case. If the petitioner is not in a position to engage a counsel on his own, the first respondent is directed to approach the District Legal Services Authority concerned for appointment of legal aid counsel and the counsel appointed shall be given opportunity to meet the petitioner and get instructions to defend the case.

5. This Criminal Revision case is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

arr

To

1. The Sub Divisional Magistrate and Revenue Divisional Officer,
Tambaram chengalpattu District

2. The Inspector of Police,
H-1, Otteri Police Station,
Kancheepuram District,
[Crime No.4255 of 2020]

3. The Superintendent,
District Prison,
Chengalpattu District.

4.The District Legal Services Authority
chennai

+1 cc to Mr.M.Ravikumar advocate sr5853

Crl.RC.No.1156 of 2020

aa11/02/2021



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