

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1248 of 2020
and Crl.MP.No.8774 of 2020

R.Karthick @ Irula Karthick ... Petitioner

...vs...

1. State rep.by
The Inspector of Police (Law and Order),
S-8, Adambakkam Police Station,
Chennai -88.
2. The Executive Magistrate-cum-
Deputy Commissioner of Police,
St.Thomas Mount District,
Chennai City. ... Respondents

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order dated 15.09.2020 passed by the 2nd respondent in Misc.Petition No.18/2020 in Na.Ka.No.642/Ni.se.Na. Ka.Thu.Aa.Pa.Tho.Ma/2019 and to allow the above Criminal Revision Case.

For Petitioner : Mr.S.N.Arunkumar
For Respondents : Mr.R.Surya Prakash
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 15.09.2020 passed by the second respondent in Misc.Petition No.18/2020 in Na.Ka.No.642/Ni.se.Na. Ka.Thu.Aa.Pa.Tho.Ma/2019.

2.The case of the petitioner is that based on the complaint given by one Suresh, the first respondent/police registered a case in Crime No.1226 of 2020 against the petitioner for the alleged offence under Sections 294(b), 341, 392, 397 and 506(ii) IPC and he was arrested and remanded to judicial custody on 03.09.2020. Thereafter, the first respondent police initiated

action against the petitioner under Section 122(1)(b) Cr.P.C for the breach of bond executed by the petitioner under Section 110 Cr.P.C within 251 days. On Prisoner's Transit Warrant, the petitioner was summoned before the second respondent on 10.09.2020. After due enquiry, the second respondent by order dated 15.09.2020 convicted and sentenced the petitioner under Section 122(1) Cr.P.C.

3.The learned counsel for the petitioner would submit that the said order dated 15.09.2020 was passed without providing sufficient opportunity and legal assistance to the petitioner. Challenging the same, the present Criminal Revision Case.

4. The learned Government Advocate (Crl.Side) would submit that after providing sufficient opportunity only the petitioner was produced before the second respondent for enquiry. At the time of trial, the petitioner has not raised any request regarding legal assistance, but, now, the petitioner has raised the said objection. Hence, there is no merit in this case and the same may be liable to be dismissed.

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

6. Admittedly, the case was registered against the petitioner in Crime No.1226 of 2020 for the alleged offence under Section 294(b), 341, 392, 397 and 506(ii) IPC. Thereafter, the first respondent police initiated action against the petitioner under Section 122(1)(b) of Cr.P.C for the breach of bond executed under Section 110 Cr.P.C.

7. On a careful perusal of the records, it is seen that legal assistance has not been provided to the petitioner/accused, which is one of the right of the accused. The accused, who is in custody, has to be provided with legal assistance by engaging a counsel on his own. If the petitioner is not in a position to engage a counsel on his own, it is the bounden duty of the respondents to provide legal assistance through Legal Services Authority. In this case, the second respondent ought to have offered adequate time to engage a counsel to defend him or engage a counsel through Legal Services Authority.

8. In such view, the order passed by the second respondent dated 15.09.2020 is hereby set aside and the matter is remitted back to the second respondent to dispose of the case in accordance with law, within a period of two months from today. The second respondent is directed to provide legal assistance to the petitioner through the Legal Services Authority, if the petitioner is not in a position to engage a counsel on his own.

9. Accordingly, this Criminal Revision Case is allowed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

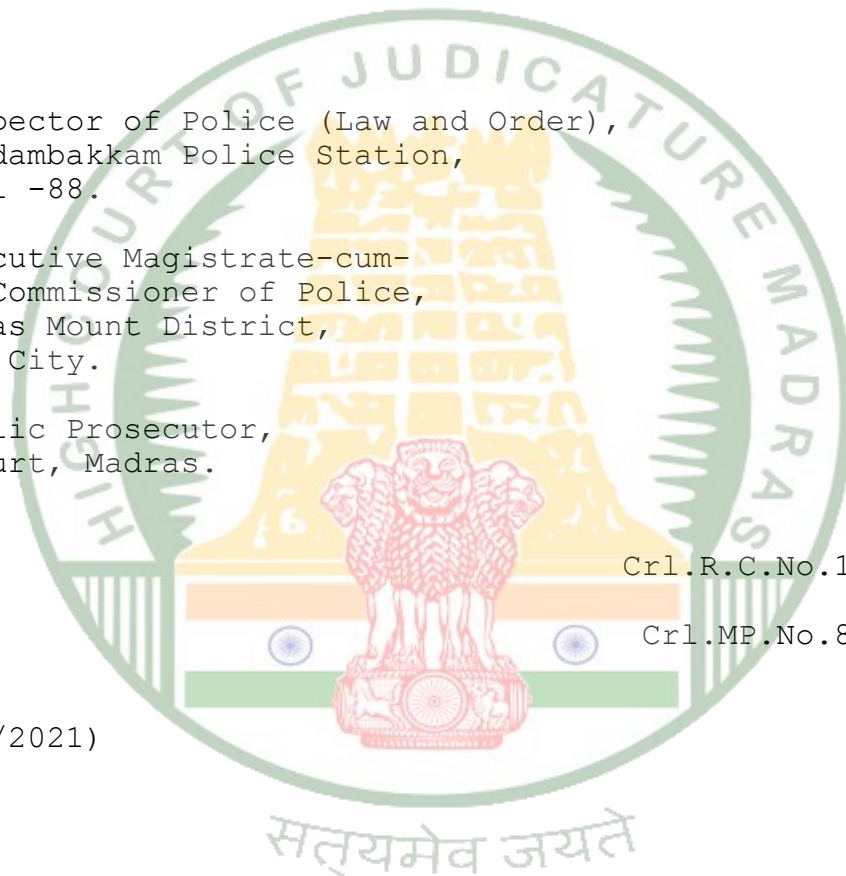
1.The Inspector of Police (Law and Order),
S-8, Adambakkam Police Station,
Chennai -88.

2.The Executive Magistrate-cum-
Deputy Commissioner of Police,
St.Thomas Mount District,
Chennai City.

3.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.1248 of 2020
and
Crl.MP.No.8774 of 2020

LN (CO)
RMP (25/01/2021)



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