



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.22164 of 2021

Thilipan Gunasekaran

... Petitioner

Vs.

The State,
Rep. by Inspector of Police,
Q-Branch CID, Kancheepuram District.
Crime No.1 of 2020.

... Respondent

Prayer: Petition filed under Section 439(1)(b) of Cr.P.C., to set aside the condition "The petitioner shall stay at Trichy Special Refugees Camp and appear and sign before the Officer-in-Charge daily at 10.00 a.m and 5.00 p.m until further order failing which the order shall stand dismissed automatically" imposed in the order dated 19.03.2021 of the learned Judicial Magistrate No.1, Chengelpattu in Cr1.MP.No.2498 of 2021.

For Petitioner : Mr.A.Ashwinkumar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The petitioner has filed this petition seeking to set aside the condition imposed in the order dated 19.03.2021 before the learned Judicial Magistrate No.1, Chengelpattu in Cr1.MP.No.2498 of 2021.

2. The case of the petitioner is that, on a secret information, the respondent police conducted search in petitioner's father house, after completion of enquiry certain documents were recovered, which are in the nature of impersonating as an Indian Citizen. Further, the petitioner was arrested for the offence punishable under Sections 420, 465, 468, 471 of IPC and 14 A(b) of Foreigners Act 1946 and 12 (1)(c)



of the Passport Act, 1967, 353, 506(ii) IPC and 25 of Arms Act 1959 r/w Section 6 of Arms Act, 1959 before the learned Judicial Magistrate No.1, Chengalpattu. He was granted bail on condition that the petitioner shall stay at Trichy Special Refugees Camp and appear and sign before the officer in-charge daily at 10.00 a.m and 5.00 p.m until further order failing which the order shall stand dismissed automatically. Hence, the present petition has been filed.

3. The learned counsel for the petitioner submits that the order passed by the learned Magistrate in CrI.M.P.No.2498 of 2021 dated 19.03.2021, to stay the petitioner at Trichy Special Refugees Camp, for which the learned Magistrate has no powers to pass such order, as per the Foreigners Act Section 3(2)(e), clause (e) which is extracted as under:

(e) shall comply with such conditions as may be prescribed or specified:-

(i) requiring him to reside in a particular place.

(ii) imposing any restrictions on his movements

(iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified.

(iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified.

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified

(vi) prohibiting him from association with persons of a prescribed or specified description

(vii) prohibiting him from engaging in activities of a prescribed or specified

(viii) prohibiting him from using or possessing prescribed or specified articles

(ix) otherwise regulating his conduct in any such particular as may be prescribed or specified.

4. The learned counsel for the petitioner further pointed out that "Civil Authority" means such authority as may be appointed by the Central Government in this behalf for such area as it thinks fit, as per the Foreigners Order, 1948. Based



upon two provisions, he further submits that the Magistrate has no powers to order the petitioner to stay at Trichy Special Refugees Camp which is not meant for foreigners. He also suggested that there are two other camps which is at Chengalpattu and Rameswaram which is meant for re-habitation and hence he prayed to modify the said condition.

5. The learned Additional Public Prosecutor raised objection stating that already the petitioner's father is in Trichy and he is a Srilankan History Sheeter and he is also staying at Trichy Special Refugees camp which is exclusively for foreign offenders but the petitioner, as per the complaint, he has manipulated the documents and obtained the property by giving false Aadhar card and others records, which needs detailed investigation. If he allowed to stay at any other camp other than Trichy Special Refugees Camp which is meant for the non-offenders like Rameswaram camp, he will abscond, intimidate the witness, tamper the evidence., etc.

6. Considering the entire facts of the case, which reveals that, as per the provisions of the Foreigners Act 3(e)(ii) imposition of any restrictions on his movements is permissible and since the facts involved requires detailed investigation, the learned Magistrate has passed the order to stay at Trichy Special Refugees camp which is meant for foreigner offender which is justifiable one. Hence, this Court finds no merit in this petition.

7. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions, if any, is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

drl

To

1. The Inspector of Police,
Q-Branch CID,
Kancheepuram District.



2. The Judicial Magistrate,
No.I, Chengalpattu.

3. Do-Through,
The Chief Judicial Magistrate,
Chengalpattu.

4. The Public Prosecutor,
Madras High Court.

Crl.O.P.No.22164 of 2021

PM(CO)
SU(30/12/2021)