



BAIL SLIP

The Peitioner / Accused viz., Tamizharasan, S/o.Yuvaraj was directed to be released on bail as per the order of the dated 09.09.2019 in Crl.M.P.No.11886 of 2019 in Crl.R.C.No.815 of 2019 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Revision Case No.815 of 2019
Crl.M.P.No.11886 of 2019

Tamizharasan

Vs.

...Petitioner

1. The EXECUTIVE MAGISTRATE - CUM - DEPUTY
COMMISSIONER OF POLICE
Madhavaram Range
Chennai City Police

2. State : Inspector of Police
Law and Order
M-5, Ennore Police Station
Chennai-57.

...Respondents

Prayer : Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside and revise the order dated 22.07.2019 passed by the 1st respondent in M.P.No.09 of 2019 in R.C.No.181/Sec.Pro/DCP MVM/2019 on the file of the Executive Magistrate cum Deputy Commissioner of Police.

For Petitioner : Mr.M.Kaveri Selvam

For Respondents : Mr.S.Sugendran
Government Advocate (Crl.Side)

ORDER

This Criminal Revision has been filed against the order dated 22.07.2019 passed by the 1st respondent in M.P.No.09 of 2019 in R.C.No.181/Sec.Pro/DCP MVM/2019 on the file of the



Executive Magistrate cum Deputy Commissioner of Police.

2. The case of the petitioner is that the petitioner was involved in case in Crime No.17/2019 for the offence punishable under Section 341, 294(b), 394, 506(ii) IPC. The petitioner was asked to execute a bond under Section 107 Cr.P.C. to maintain peace. Accordingly, he executed the bond. During the pendency of the bond, the petitioner again involved in another offence and thereby, a case in Crime No.321 of 2019 was registered against the petitioner on 25.06.2019 for the offences punishable under Sections 147, 148, 341, 294(b), 324, 307, 506(ii) IPC based on the complaint given by one Kalpana and the petitioner was arrested and remanded to judicial custody on the same day. Thereafter, the petitioner was asked to appear before the 1st respondent for proceedings under Section 122(1b) Cr.P.C. Subsequently, the petitioner was produced before the 1st respondent and copies were served and the witnesses 1 to 3 were examined. Thereafter, the 1st respondent being satisfied that during the pendency of the bond period, the petitioner involved in another case in Crime No.321 of 2019 for the offences punishable under Sections 147, 148, 341, 294(b), 324, 307, 506 (ii) IPC, cancelled the bond executed by the petitioner under Section 107 Cr.P.C., and directed the petitioner to undergo the remaining period covered in the bond period. Challenging the said order of cancellation of bail bond, the present revision has been filed before this Court.

3. The learned counsel for the petitioner would submit that no opportunity was given and without giving opportunity, the 1st respondent concluded the proceedings u/s.122(1b) of Cr.P.C., and imposed the sentence cancelling the bond and to undergo imprisonment for the remaining period of bond.

4. The matter came up on 28.07.2021. The learned Government Advocate (Crl.Side) sought time for ascertaining the present position. He would also submit that originally the petitioner was involved in Crime No.17/2019 for offences under Sections 341, 294(b), 394, 506(ii) IPC and he was asked to give bond for maintaining peace under Section 107 Cr.P.C., Subsequently, he was involved in Crime No.321/2019 for the offence under Sections 147, 148, 341, 294(b), 324, 307, 506(ii) IPC. Therefore, proceedings under Section 122(1b) was initiated and subsequently, the 1st respondent having satisfied with the reasons to proceed against the petitioner under Section 122(1b) of Cr.P.C., and having examined the prosecution witnesses 1 to 3 and going through Exhibits 1 to 7, cancelled the bond and imposed the sentence to undergo the remaining period of bond. Therefore, there is no merit in the revision petition and is liable to be dismissed.



5. Heard and perused the records carefully.

6. A perusal of records shows that the petitioner was involved in Crime No.17/2019 for the offences punishable under Sections 341, 294(b), 394, 506(ii) IPC. Therefore, he was asked to execute a bond under Section 107 Cr.P.C. to maintain peace and accordingly, he executed the same. During the pendency of the bond period, he was again involved in the ground case in Crime No.321/19 and subsequently, he was arrested and remanded to judicial custody. Though the learned counsel for the petitioner would submit that there was no opportunity was given, a perusal of the records would go to show that the petitioner was produced before the 1st respondent and also the copies were served and examined the witnesses and also on being satisfied with the reasons, the 1st respondent passed the impugned order. Therefore, on being satisfied that during the pendency of bond period, the petitioner involved in the ground case in Crime No.321 of 2019, therefore, the 1st respondent cancelled the bond executed by the petitioner under Section 107 Cr.P.C. and also sentenced him to undergo imprisonment for the remaining bond period.

7. The procedure under Section 122(1b) Cr.P.C., is only summary in nature and before cancelling the bond, the Executive Magistrate must satisfy that during the bond period, the petitioner involved in other case. In this case, one of the offences is under Section 324 IPC and witnesses have also been examined before the Executive Magistrate and spoken about the incident. No doubt, the Executive Magistrate has to give opportunity to explain the accused about the procedure, however, in all the cases, it is not necessary that before passing the order, the Executive Magistrate has to conduct mini trial. The object behind the legislation is that to arrive at a subjective satisfaction that the petitioner committed breach of the bond. The Executive Magistrate can call for the witnesses and record their evidence and so recording the grounds of such proof, the 1st respondent passed the impugned order. Therefore, the contention of the learned counsel for the petitioner that no opportunity given, is not acceptable. Further, one of the offences in Crime No.321/19 is under Section 324 IPC and after examination of the witnesses and going through the exhibits, the 1st respondent came to the conclusion that the petitioner is alleged to have involved in the offence during the bond period executed by him.

8. Accordingly, this court does not find any merit in the revision and this court does not find any perversity or illegality in the order passed by the Executive Magistrate / 1st respondent. Therefore, the Criminal Revision case is dismissed. This Court by order dated 09.09.2019, granted suspension of



substantive sentence of imprisonment on certain conditions. In view of the dismissal of the revision petition, the 2nd respondent shall take steps to secure the presence of the petitioner to serve the remaining period of bond period.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Executive Magistrate - CUM - Deputy
Commissioner Of Police
Madhavaram Range
Chennai City Police
2. State : Inspector of Police
Law and Order
M-5, Ennore Police Station
Chennai-57.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor Officer,
High Court, Madras.
5. The Section Officer,
Criminal Section,
High Court, Madras.

Criminal Revision Case No.815 of 2019

RR(CO)
RGA(23/09/2021)