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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.881 of 2019

Subha

W/o, Desappan

... Petitioner/Respondent/Respondent

Versus

1. The Executive Magistrate cum
Deputy Commissioner of Police,
Madhavaram Range,
Chennai City Police.

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

... Respondents/Respondents/Respondents

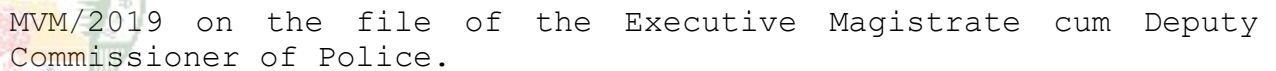
PRAYER: Criminal Revision Petition filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside and revise the order dated 16.07.2019 passed by the 1st respondent in M.P.No.08 of 2019 in RC.No.192/Sec.Pro/DCP MVM/2019 on the file of the Executive Magistrate cum Deputy Commissioner of Police.

For Petitioner : Mr.M.Kaveriselvam

For Respondents : Mr.S.Vinoth Kumar
for Public Prosecutor

ORDER

This Criminal Revision Petition has been filed to set aside and revise the order dated 16.07.2019 passed by the 1st respondent in M.P.No.08 of 2019 in RC.No.192/Sec.Pro/DCP



3. Learned counsel appearing for the petitioner would submit that the first respondent failed to give an opportunity to engage a counsel for defending her case and she has not served with the copies and without following the procedure and without conducting fair enquiry, the first respondent imposed the sentence to undergo remaining bond period.

<https://hcservices.ecourts.gov.in/hcservices/>



5. Admittedly, the petitioner was originally involved in case in Crime No.1083 of 2018 for the offence under Section 8(c) r/w 20(b), (ii), (B) of NDPS Act. Subsequently, a bond was executed. During the bond period, the petitioner was involved in the ground case. Then, she was arrested and remanded to the judicial custody. When she was in judicial custody for the ground case, summon was issued to the petitioner and she was produced before the first respondent on P.T warrant and after examining the witnesses, satisfied with the report filed by the second respondent, the Executive Magistrate canceled the bond and passed the final order to undergo imprisonment for the remaining period of 258 days. The petitioner raised the main ground that opportunity was not given and without giving opportunity and fair enquiry, the first respondent has passed the impugned order. However, in this case there was a recovery and also the impugned order passed in the year 2019. Considering the serious nature of allegation in the ground case in Crime No.334 of 2019 for the offence under section 8(c) r/w 20(b), (ii), (B) of NDPS Act and the first respondent prima facie satisfied with the report filed by the second respondent as well as made enquiry and after examining all the witnesses and questioning under 313 Cr.P.C, the petitioner admitted the guilt. Based on the admission, the learned Executive Magistrate imposed the sentence. Therefore, there is no perversity in the order passed by the first respondent and the revision is liable to be dismissed. Hence, the Criminal Revision Case is dismissed. However, the petitioner is at liberty to take all her defence in the case during trial.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Executive Magistrate cum
Deputy Commissioner of Police,
Madhavaram Range,
Chennai City Police.



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

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3. The Public Prosecutor,
High Court,
Madras.

CRL.R.C.No.881 of 2019

NR(CO)
SU(22/09/2021)