



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.970 OF 2019

Raji @ Philiki Raj

...Petitioner

-Vs-

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

2. The State represented by
The Inspector of Police,
Law and order,
M-5, Ennore Police Station,
Chennai - 57.

...Respondents

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside and revise the order dated 06.08.2019 passed by the first respondent in M.P.No.14 of 2019 in RC.No.266/Sec.Pro/DCP MVM/2019 on the file of the Executive Magistrate cum Deputy Commissioner of Police.

For Petitioner : Mr.M.Kaveri Selvam

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

O R D E R

This Criminal Revision Case has been filed against the order dated 06.08.2019 passed by the first respondent in M.P.No.14 of 2019 in RC.No.266/Sec.Pro/DCP MVM/2019.

2 According to the petitioner, the first respondent, before passing the impugned order, has not given any opportunity to the petitioner to engage a counsel or to offer his explanations. There is no reason assigned by the first respondent to detain the petitioner in prison. Hence the first respondent violated the principles of natural justice, which warrants interference of this Court.



3 The learned Government Advocate (Crl.Side) would submit that during the bond period, the petitioner involved in ground case and the second respondent police completed the investigation and charge sheet yet to be filed.

WEB COPY

4 Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondents and also perused the materials available on record.

5 It is seen that the petitioner was taken by the second respondent police on 19.05.2019 and on enquiry it came to know that he was shown as accused in Cr.No.396 of 2019 and hence since there is possibility of committing offence by the petitioner, he was directed to execute a bond for keeping good behavior and accordingly, on 21.05.2019, he executed the bond. During the bond period, the petitioner involved in the ground case registered in Cr.No.345 of 2019 and hence on 07.07.2019 he was arrested and remanded to judicial custody. Thereafter, on P.T. Warrant, he was produced before the first respondent and the first respondent, after enquiry, cancelled the bond and by order dated 06.08.2019 sentenced the petitioner to undergo imprisonment for remaining period of bond.

6 A careful perusal of the impugned order dated 06.08.2019 passed by the first respondent would go to show that the first respondent has not given any opportunity to the petitioner to engage a counsel or to avail any legal aid. It is the right of the accused to engage a counsel and defend the case on his behalf and the same should not be denied under any circumstances. On this score, this Court is inclined to set aside the impugned order passed by the first respondent.

7 Accordingly, the order passed by the Executive Magistrate cum Deputy Commissioner of Police in M.P.No.14 of 2019 in RC.No.266/Sec.Pro/DCP MVM/2019 dated 06.08.2019, is hereby set aside and the matter is remitted back to the first respondent to pass fresh orders in accordance with law after giving sufficient opportunities to the petitioner to engage a counsel and if he could not engage a counsel, the first respondent is directed to provide Legal Aid to the petitioner by appointing Legal Aid Counsel to defend the case on behalf of the petitioner.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cgi



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.
3. The Public Prosecutor,
High Court of Madras.
4. The Section Officer ,
Criminal Section,
High Court, Madras-104.

Cr1.R.C.No.970 of 2019

GP(CO)
CS/19/08/2021