



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 05.02.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.2 of 2021

and

Crl.M.P.(MD)Nos.23 and 25 of 2021

Panjavarnam, F/81 years,
W/o.Baskaran

.. Petitioner

Vs.

1.The Executive Magistrate and
The Deputy Commissioner of Police,
(Law and Order), Madurai.

2.The Inspector of Police,
C5, Karimedu Police Station (Law and Order),
Maudrai City.
(Crime No.1394 of 2020)

.. Respondents

Prayer : This criminal revision case filed under Section 397 r.w. Section 401 of Cr.P.C., to call for the records in எம்.சி: 626/ நி.செ.ந & கா.து.ஆ / ம.மா / 2020, dated 09.10.2020 on the file of the Executive Magistrate cum Deputy Commissioner of Police, Law and Order, Madurai City.

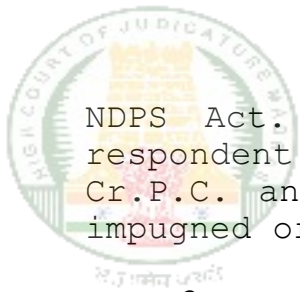
For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the first respondent, in எம்.சி: 626/ நி.செ.ந & கா.து.ஆ / ம.மா / 2020, dated 09.10.2020.

2.On the report of the second respondent, the first respondent initiated proceedings in M.C.No.626 of 2020 against the petitioner, on 12.06.2020, the petitioner executed a bond to maintain good conduct for a period of one year. Subsequently, on 17.09.2020, the petitioner was involved in an offence in Crime No.1394 of 2020, under Section 302(b) (ii) (B) and 25, 29(1) of Cr.P.C. r/w. Section 20(b) (ii) (B) and 25, 29(1) of Cr.P.C.



NDPS Act. On the report of the second respondent, the first respondent initiated proceedings under Section 122(1)(b) r/w. 117 Cr.P.C. and passed the impugned order on 09.10.2020. Against the impugned order, the petitioner preferred this Revision.

3. On the side of the revision petitioner, it is stated that the petitioner is 81 years old lady and she is in custody for the past three months. No preliminary order was passed under Section 111 Cr.P.C. No enquiry was conducted and directly the first respondent has passed the final order. The first respondent is not entitled to pass an order under Section 110 Cr.P.C. and the order of the first respondent is against the directions of this Court in Crl.R.C.(MD) No.78 of 2020 [Devi Vs. The Executive Magistrate cum Deputy Commissioner of Police and another], dated 25.09.2020 and prayed the impugned order to be set aside.

4. On the side of the respondents, it is stated that the petitioner is a habitual offender and she is causing disturbance to the general public and she is having 16 previous cases of the same nature. The petitioner was selling Ganja, which is an offence, against the Society. The first respondent is having power to pass the order under Section 110 Cr.P.C. and the question raised by the revision petitioner regarding *locus standi* of the first respondent is pending before the Larger Bench. The power of the respondent was not cancelled either by the Government or by the Court. If the sentence is suspended, there is every possibility for the petitioner to involve in similar offence and prayed the petition to be dismissed.

5. It is seen that P.T. warrant was issued on 25.09.2020, for the appearance of the petitioner on 29.09.2020, along with show cause notice and the documents relating to the case. On 29.09.2020, five witnesses were examined and at the request of the revision petitioner, the matter was adjourned to 01.10.2020 for cross-examination of the witnesses. On 01.10.2020, again, the revision petitioner asked for adjournment for engaging a counsel. Hence, the matter was adjourned to 07.10.2020 and again the matter was adjourned to 09.10.2020. On 09.10.2020, the revision petitioner has failed to cross-examine the witnesses and her statements were recorded, wherein, she has admitted the offence. Sufficient opportunity was provided to the petitioner. It is stated that the petitioner involved in 16 similar cases. The petitioner was ordered to be in detention for 8 months and 4 days, wherein, the petitioner has undergone 25% of the period of detention.

6. Considering the age of the revision petitioner and considering the fact that she has already undergone 25% of the detention period, this Court is inclined to set aside the impugned order.



7.The Criminal Revision Case is allowed and the impugned order passed by the first respondent, in எம்.சி: 626/ நி.செ.ந & கா.து.ஆ / ம.மா / 2020, dated 09.10.2020, is hereby set aside. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Executive Magistrate and
The Deputy Commissioner of Police,
(Law and Order), Madurai.
- 2.The Inspector of Police,
C5, Karimedu Police Station (Law and Order),
Maudrai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

1. The Superintendent of Prison,
Central Prison,
Madurai.
- 2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

Crl. R.C. (MD)No.2 of 2021
05.02.2021