



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 11.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.41 of 2021

Ayyappan

.. Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Swamimalai Police Station,
Crime No.1031 of 2020

2.The First Class Executive Magistrate
and Revenue Divisional Officer,
Kumbakonam.

.. Respondents

(R2 impleaded as per order of this Court dated 18.02.2021 in Crl
MP(MD)No.1345 of 2021 in Crl.R.C.(MD)No.41 of 2021)

Prayer : This criminal revision case is filed under Sections 397
r/w. 401 of Cr.P.C., to set aside the order passed by the learned
Sessions Judge, Thanjavur in Cr.M.P.No.5187 of 2020 in Cr.R.P.No.52
of 2020 dated 18.12.2020 and release the petitioner on bail till the
disposal of the Cr.R.P.No.52 of 2020 on the file of the learned
Principal Sessions Judge, Thanjavur.

For Petitioner	: Mr.M.R.R.Sivasubramanian
For Respondents	: Mr.S.Bharathi
	Government Advocate (Crl. Side)



ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.5187 of 2020 dated 18.12.2020, on the file of the learned Principal Sessions Judge, Thanjavur.

2.The Revenue Divisional Officer has passed an order in Form 16 in M.C.No.66 of 2020 on 23.09.2020 for the detention of the petitioner. Against the order of detention, the petitioner filed a revision in Cr.M.P.No.5187 of 2020 before the learned Principal District and Sessions Judge. Thanjavur. That petition was dismissed by the learned Principal District and Sessions Judge. Against the dismissal of the revision, the petitioner has filed the present revision.

3.On the side of the petitioner, it is stated that the satisfaction of the Revenue Divisional Officer is not recorded. No opportunity was given to the petitioner to file counter or objections. The petitioner was not heard and no enquiry was conducted. The petitioner is involved in only one case I.e. In 2017. The petitioner was released on bail in the subsequent criminal case and prayed the impugned order to be set aside.

4.On the side of the respondents, it is stated that the second respondent initiated proceedings under Section 107 of Cr.P.C. On 01.09.2020 in M.C.No.66 of 2020, the petitioner executed a bond under Section 110 of Cr.P.C., for keeping peace and maintaining good behavior. Subsequently on 05.09.2020, the petitioner involved in another case in Crime No.1031 of 2020 for the offence under Section 147, 148, 294(b) and 302 of IPC. Since the petitioner has violated the bond conditions the second respondent has passed the impugned order. The petitioner is a habitual offender having seven previous cases.

5.It is further stated that out of seven cases, one case is under Section 307 of IPC and another case is under Section 302 of IPC. Considering the previous antecedents of the petitioner, the second respondent has rightly passed the order and prayed the petition to be dismissed.

6.It is seen that the petitioner is having previous cases including one murder case. Now the present case against the petitioner is also a murder case. A perusal of the impugned order reveals that no enquiry was conducted under Section 122(1)(b) of Cr.P.C., The second respondent without following the procedures, has straight away passed the order in Form 16. No opportunity was given to the petitioner. The satisfaction of the second respondent was not



mentioned in the order.

7. In the above circumstances, this Criminal Revision Case is allowed and the order passed in Cr.M.P.No.5187 of 2020 in Cr.R.P.No.52 of 2020 dated 18.12.2020, on the file of the learned Principal Sessions Judge, Thanjavur is set aside. The petitioner is directed to be released forthwith, unless his presence is required in any other case.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

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 Principal Sessions Judge, Thanjavur.
- 2.The Inspector of Police,
Swamimalai Police Station.
- 3.The First Class Executive Magistrate and Revenue Divisional Officer,
Kumbakonam.
- 4.The Superintendent of Prison,
Central Prison, Trichy.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.41 of 2021
11.03.2021

SJ(CO)
KK(12.03.2021) 3P 6C