



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 25.02.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.86 of 2021
and Crl.M.P.(MD)No.1092 of 2021

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.. Petitioner

Vs.

1.The Executive Magistrate No.II/ the Tahsildar,
Thovalai Taluk, Thovalai,
Kanniyakumari District.

2.The Inspector of Police,
Boothapandi Police Station,
Boothapandi, Kanniyakumari District.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

.. Respondents

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records pertaining to the order, dated 26.11.2020 passed by the first respondent/the Executive Magistrate No.II,/Tahsildar, Thovalai Taluk, Thovalai, Kanniyakumari District in Na.Ka.No.A4/4440/2020 and set aside the same as illegal.

For Petitioner

: Mr.N.Pragalathan

For Respondents

: Mr.Bharathikannan

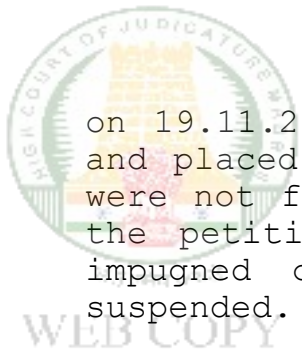
Government Advocate (Criminal side)

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the first respondent, in Na.Ka.No.A4/4440/2020, dated 26.11.2020.

2.The petitioner executed a bond under Section 110 of the Code of Criminal Procedure. Subsequently, the petitioner was arrested in Crime No.403 of 2020 on the file of the second respondent police. The first respondent initiated proceedings under Section 122 (b) of the Code of Criminal Procedure and passed the impugned order to detain the petitioner. Against the same, the petitioner preferred this Criminal Revision.

3.On the side of the revision petitioner, it is stated that the revision petitioner executed a bond on 23.09.2020. But he was arrested on 04.11.2020 for an offence under Sections 8(c), 20(b)(ii) (B) of NDPS Act. A show cause notice was issued to the petitioner



on 19.11.2020. The petitioner appeared before the first respondent and placed his explanation on 20.11.2020. Copies of the documents were not furnished to the petitioner. No opportunity was given to the petitioner. No proper enquiry was conducted and prayed the impugned order to be set aside and that the sentence to be suspended.

4.On the side of the respondents, it is stated that sufficient opportunity was given to the petitioner. The petitioner violated the condition imposed in the bond under Section 110 of the Code of the Criminal Procedure. The petitioner involved in ten previous cases, out of which, eight cases were under the TNP Act and two cases under the NDPS Act and he is a habitual offender. H.S.No.02 of 2019 is maintained against the petitioner and prayed the petition to be dismissed.

5.It is seen that the second respondent filed a report before the first respondent in LIR No.5 of 2020 under Section 110 of the Code of Criminal Procedure. The first respondent initiated proceedings in M.C.No.17 of 2020. After enquiry, the petitioner executed a bond under Section 110 of the Code of Criminal Procedure to maintain good behaviour for a period of one year. Subsequently, on 04.11.2020, the petitioner involved in another case in Crime No.403 of 2020 under Sections 8(c), 20(b)(ii)(B) of NDPS Act and he was arrested by the second respondent. On the report of the second respondent, the first respondent issued a show cause notice on 19.11.2020. There is no mentioning about the copies of the documents served on the petitioner. No enquiry was conducted. No witness was examined. No opportunity was given to the petitioner. Since the petitioner is having previous cases, the impugned order was passed by the first respondent.

6.In the above circumstances, this Court is inclined to set aside the order passed by the first respondent. Hence, the impugned order dated 26.11.2020, in Na.Ka.No.A4/4440/2020 passed by the first respondent is hereby set aside and this Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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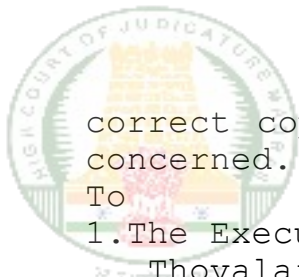
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Sub Assistant Registrar(CS)

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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

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



correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Executive Magistrate No.II/ the Tahsildar,
Thovalai Taluk, Thovalai,
Kanniyakumari District.

2.The Inspector of Police,
Boothapandi Police Station,
Boothapandi, Kanniyakumari District.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-7168[F] dated 25/02/2021)

Crl. R.C. (MD) No.86 of 2021
25.02.2021

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AC (CO)

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