



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 15.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.102 of 2021

and

Crl.M.P.(MD)No.1251 of 2021

Justin @ Justin Vijay
(Now confined at Central Prison,
Palayamkottai, Triunelveli District)

.. Petitioner/Detenu

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 22.01.2021 passed by the first respondent/the Executive Magistrate No.II/Tahsildar, Thovalai Taluk, Thovalai, Kanniyakumari District in Na.Ka.No.A4/4440/2020 and to set aside the same as illegal.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mrs.S.Bharathi

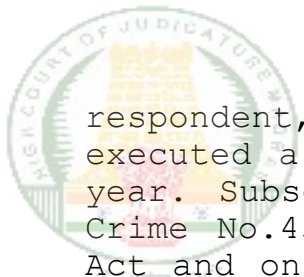
Government Advocate (Criminal Side)

ORDER

This petition has been filed to set aside the order passed in Na.Ka.No.A4/4440/2020 dated 22.01.2021, on the file of the first respondent.

2.Based on the report of the second respondent, the proceedings under Section 110 of Cr.P.C., was initiated by the first

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



respondent, in M.C.No.18 of 2020 dated 24.09.2020. The petitioner executed a bond for maintaining good behavior for a period of one year. Subsequently, the petitioner involved in another offence in Crime No.433 of 2020 under Sections 8(c) and 20(b)(ii)(B) of NDPS Act and on 04.12.2020, he was arrested. Based on the report of the second respondent, the first respondent initiated proceedings under Section 122(1)(b) of Cr.P.C. Against the impugned order, the petitioner preferred the Criminal Revision Case.

3.On the side of the petitioner, it is stated that a false case was registered against the petitioner. The show cause notice was issued on 21.12.2020. The petitioner has filed his explanation on 19.01.2021. No enquiry was conducted by the respondents. The copies of documents were not given to the petitioner. An opportunity for the petitioner to defend himself was not given and legal aid assistance was not given to the petitioner and prayed the impugned order to be set aside.

4.On the side of the respondents, it is stated that the petitioner was involved in four previous cases. Based on the report of the second respondent, the first respondent has initiated proceedings under Section 110 of Cr.P.C.. The petitioner executed a bond to maintain good behavior on 24.09.2020. Subsequently, the petitioner involved in another case in Crime No.433 of 2020 under Sections 8(c) and 20(b)(ii)(B) of NDPS Act. Only after considering the objections raised by the petitioner and after considering the report filed by the second respondent, the impugned order was rightly passed by the first respondent and prayed the petition to be dismissed.

5.A perusal of the records reveals that the first respondent has not furnished copies to the petitioner. No enquiry was conducted in the presence of the petitioner. The first respondent has failed to discuss the objections raised by the petitioner. The first respondent failed to record his satisfaction.

6.In the above circumstances, this Criminal Revision Case is allowed and the order passed in Na.Ka.No.A4/4440/2020 dated 22.01.2021, on the file of the first respondent is set aside. The petitioner is directed to be released forthwith, unless his presence is required in any other case. Consequently, connected miscellaneous petition is closed.

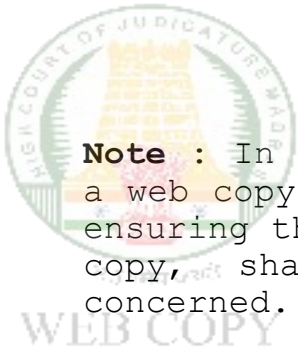
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 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 Mr.N.PRAGALATHAN, Advocate (SR-11246[F] dated 15/03/2021)

Order made in
Crl. R.C.(MD)No.102 of 2021 and
Crl.M.P.(MD)No.1251 of 2021
15.03.2021

DKS (CO)
SRS (23/03/2021) 3P : 6C