



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.07.2021

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

CrI.RC(MD)No.463 of 2021

WEB COPY

Namburajan

: Petitioner/Detenue

Vs.

1.The Second Class Executive Magistrate-cum-Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

2.The Superintendent of Prison,
Central Prison,
Madurai,
Madurai District.

3.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram,
Ramanathapuram District.
(In Crime No.49 of 2021)

:Respondents/Complainants

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, against the order, dated 26.03.2021 in MC No.106/2021(A3) on the file of the Second Class Executive Magistrate-cum-Tahsildhar, Ramanathapuram, Taluk, Ramanathapuram.

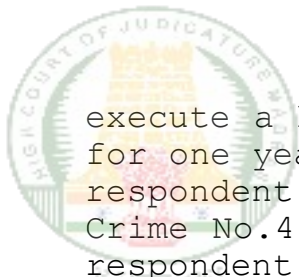
For Petitioner : Mr.D.Balamurugapandi

For Respondents : Mr.P.Kottaisamy
Counsel for State Government
(Criminal side)

O R D E R

This Criminal Revision is filed against the order, dated 26.03.2021 made in MC No.106/2021(A3) on the file of the Second Class Executive Magistrate-cum-Tahsildhar, Ramanathapuram Taluk, Ramanathapuram.

2.It is seen from the records that a case in Crime No.349 of 2000 was registered against the petitioner and for that, the 3rd respondent sent the letter to the 1st respondent to take action as against the petitioner under section 110(e) of Cr.P.C. The 1st respondent summoned the petitioner on 01.03.2021 and directed to



execute a bond for a sum of Rs.50,000/- for maintain good behaviour for one year. The petitioner executed the bond as required by the 1st respondent. In the meanwhile, on 05.03.2021, a criminal case in Crime No.49 of 2021 was registered against the petitioner by the 3rd respondent police and he was arrested and remanded to judicial custody. Subsequently, the 1st respondent passed the impugned order, dated 26.03.2021. Aggrieved over the same, the petitioner is before this court by way of filing this criminal revision.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.Even though various grounds were raised in the grounds of appeal, it is mainly contended by the learned counsel appearing for the petitioner/accused that before passing the impugned order, no reasonable opportunity was given and prays that the impugned order passed by the 1st respondent is liable to be set aside. In support of his contention, the learned counsel appearing for the petitioner relied upon the following judgments:-

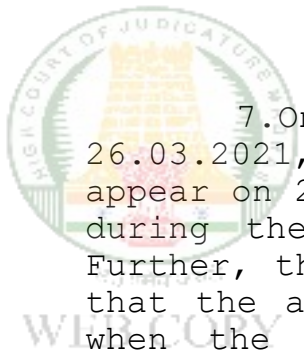
(1)(2017)2 LW (Cri) 37 (Selvam @ Selvaraj Vs. The Executive Magistrate-cum-Deputy Commissioner of Police, (Law & Order, Crime and Traffic), Tiruppur City);

(2)(2020)6 CTC 157 (Devi Vs. Executive Magistrate-cum-Deputy Commissioner of Police, St. Thomas Mount District); and

(3)Unreported decision of this court, dated 30.04.2021 made in Crl.RC(MD)No.235 of 2021 (Sermam Vs. The Sub-Divisional Executive Magistrate and Revenue Divisional Officer, Tenkasi, Tenkasi District).

5.On the other hand, on the side of the respondents, it is argued that the 1st respondent passed the order only after giving reasonable opportunity to the petitioner and prays for dismissal of the criminal revision.

6.In this case, already the 3rd respondent police issued summons to the accused to execute a bond of Rs.50,000/- under section 111 of the Criminal Procedure Code and accordingly, the accused executed the bond for Rs.50,000/- and in case any breach of conditions during that period of bond, the accused should be imprisoned for the remaining period under section 122(1)(b) of Cr.P.C. Further, it was brought to the notice of this court that the accused committed breach of bond, by indulging in a criminal case in Mandapam Police Station Crime No.49 of 2021 under section 25(1A) of Indian Arms Act and he has been arrested on 05.03.2021 and remanded to judicial custody on 05.03.2021.



7. On perusal of the order passed by the 1st respondent, dated 26.03.2021, it is stated that summons were sent to the accused to appear on 23.03.2021 and 26.03.2021 and the accused was enquired and during the enquiry, the statement of the accused was recorded. Further, the 1st respondent stated in the order passed on 26.03.2021 that the accused has the knowledge of breach of bond and further, when the accused was questioned, he replied that he has not committed the offence. Further, the 1st respondent in his order, dated 26.03.2021 stated that when the accused was produced before the concerned Magistrate, he has not stated any complaint against the registration of the criminal case in Crime No.49 of 2021 and on the basis of the above statement of the accused and the records of Crime No.49 of 2021, the 1st respondent came to the conclusion that the accused breached the bond already executed. On careful perusal of the impugned order passed by the 1st respondent, it reveals that only after giving reasonable opportunity to the accused, the 1st respondent passed the impugned order, on 26.03.2021.

8. Keeping in view of the above facts, this court is of the considered view that the order passed by the 1st respondent does not suffer from any illegality and accordingly, it is confirmed.

9. In the result, this criminal revision fails and the same is **dismissed**.

Sd/-

Assistant Registrar (T&P)

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/ /2021

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

To,

1. The Second Class Executive Magistrate-cum-Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

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



2.The Superintendent of Prison,
Central Prison,
Madurai,
Madurai District.

3.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram,
Ramanathapuram District.

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

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-23254[F] dated
20/07/2021)

Crl.RC(MD)No.463 of 2021
20.07.2021

RK (02.08.2021) 4P 6C