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Crl.RC(MD)No.434 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.08.2021

CORAM

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

Crl.RC(MD)No.434 of 2021

and

Crl.MP(MD)No.4538 of 2021

Manikandan : Petitioner/Respondent

Vs.

- 1.The Sub Divisional Magistrate/
Revenue Divisional Officer,
Thanjavur,
Thanjavur District.
- 2.The Deputy Superintendent of Police,
Thiruvaiyarur Sub Division,
Thanjavur District.
- 3.The Inspector of Police,
Nadukaveri Police Station,
Thanjavur District.

: Respondents/Complainants

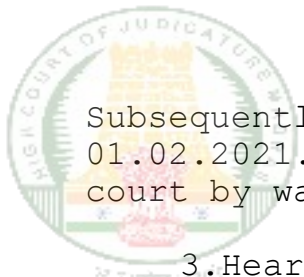
Prayer: Criminal Revision filed under section 397(1) r/w 401 of the Code of the Criminal Procedure, against the impugned order, dated 01.02.2021 passed in MC No.232 of 2020 on the file of the 1st respondent.

For Petitioner	: Mr.A.Thiruvadi Kumar
For Respondents	: Mr.RMS.Sethuraman
	Government Advocate (Crl. Side)

O R D E R

This Criminal Revision is filed against the order, dated 01.02.2021 passed in MC No.232 of 2020 by the the 1st respondent.

2.It is seen from the records that there is an allegation against the petitioner that he was indulging several criminal activities and in this regard, criminal cases in Crime Nos.58 of 2016, 988, 992 and 1457 of 2020 were registered against the petitioner and History Sheet was also opened as against him in H.S No.305 of 2016. In this regard, the 1st respondent summoned the petitioner and directed him to execute a bond for a sum of Rs.1,00,000/- for maintaining good behaviour for one year. The petitioner executed the bond as required by the 1st respondent.



Subsequently, the 1st respondent passed the impugned order, dated 01.02.2021. 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.

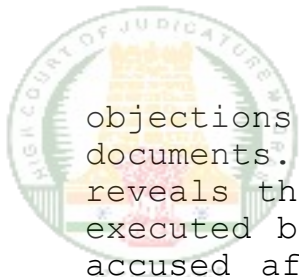
4. The learned counsel appearing for the petitioner/accused submitted that the impugned order was passed by the 1st respondent without appreciating the contents raised on behalf of the petitioner and the impugned order is violation of principles of natural justice and relevant documents were not supplied to this petitioner and no proper legal assistance had been provided to the petitioner and the satisfaction of the Authority is to be based upon the materials produced by the police officials as well as the contra materials if any provided by the accused and no sufficient opportunity was given to the petitioner to cross examine the witnesses and no enquiry was conducted and hence, the impugned order passed by the 1st respondent is liable to be set aside. For that, the learned counsel for the petitioner submitted the following rulings:-

(1) 2017(4) MLJ (Crl) 208 (P.Sathish @ Sathish Kumar Vs. State: and

(2) 2019(2) MLJ (Crl) 556 (P.Sathish @ Sathish Kumar Vs. State rep. by the Inspector of Police Law and Order, H-4, Korukkupet Police Station, Chennai-600 021 and another)).

5. But on the other hand, the learned counsel appearing for the respondents/State argued that reasonable opportunity was given and they furnished the copies of all relevant documents to the accused and after giving opportunity to the accused, conducted enquiry and the 1st respondent passed the order only after giving reasonable opportunity to the accused and there were several criminal cases pending against the accused and he is a history sheeted rowdy and hence, there is no necessary to interfere into the findings of the 1st respondent and prays for dismissal of the criminal revision.

6. The impugned order passed by the 1st respondent was carefully perused. In the impugned order, it was stated that on 23.01.2021, the respondent has appeared in person before the Court of Sub Divisional Magistrate and Revenue Divisional Officer, Thanjavur and the Court has explained about the recitals found in the bond, which was executed by the accused, on 17.10.2020 and the accused was also supplied with the copies of FIR registered against him on 16.12.2020 and 19.12.2020 I.e., after the execution of bond along with the requisition made by the Deputy Superintendent of Police, Thiruvaiyaru Sub Division and informed him to file objections, if any either directly or through his counsel. Accordingly, the



objections of the accused, the 1st respondent perused all the documents. Hence from the impugned order of the 1st respondent, it reveals that after explaining about the recitals found in the bond executed by the accused and contents of FIR registered against the accused after the execution of the bond, directed the accused to file objections, directly or through counsel and accordingly, the accused filed objection. It is to be noted that already the accused executed a bond on 17.10.2020 for Rs.1,00,000/- under section 107 of Cr.P.C to keep good behaviour for one year and he also produced the same. But after executing the bond, he involved in two criminal cases namely in Crime Nos.988 of 2020 for the offence under section 379 IPC r/w 21 (1) Mines and Minerals Act and in Crime No.992 of 2020 under section 379 IPC r/w 21(1) of Mines and Minerals Act, 1959 and for that above offences, he was arrested and remanded to judicial custody. It is pertinent to note here that prior to execution of the bond, the accused committed the above offence and 2 FIRs have been registered against him.

7.The main contention of the petitioner is that no reasonable opportunity was given to him before passing the impugned order and proper legal assistance was given to the petitioner before passing the impugned order. But on careful perusal of the impugned order, it reveals that only after giving reasonable opportunity and after providing proper legal assistance to the petitioner the 1st respondent passed the impugned order. Further, the petitioner was given opportunity to file objection directly or through counsel and the petitioner filed his objection also. Further in the impugned order, it is stated hat the recitals found in the bond was explained to the petitioner while it was executed by him.

8.It is argued on the side of the respondents that the petitioner/accused is a history sheeted rowdy and several criminal cases were pending against him and prays that the petitioner cannot be allowed to set liberty. It is seen that after executing the bond, the petitioner/accused involved in sand theft cases, which are serious in nature. Further, the 1st respondent passed the order after perusing the statement of witnesses. Hence, the 1st respondent correctly came to the conclusion that after executing the bond, the petitioner violated the provisions of bond and involved in some other criminal cases. Further perusal of the impugned order, it reveals that reasonable opportunity and proper legal assistance was given to the petitioner/accused and after due enquiry only, the 1st respondent passed the impugned order. Hence, the rulings cited by the learned counsel appearing for the petitioner are not applicable to the instant case on hand. Therefore, it is held that it is not necessary to interfere into the findings of the 1st respondent.

9.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.



10. In the result, this criminal revision fails and the same is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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

To,

1. The Sub Divisional Magistrate/
Revenue Divisional Officer,
Thanjavur,
Thanjavur District.
2. The Deputy Superintendent of Police,
Thiruvaiyarur Sub Division,
Thanjavur District.
3. The Inspector of Police,
Nadukaveri Police Station,
Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-25587[F]
dated 09/08/2021)

Crl.RC(MD)No.434 of 2021
06.08.2021

GC(31.08.2021)/4P/6C