



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 02.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl. R.C.(MD)No.469 of 2021

Munithurai @ Santiyar Munithurai

... Petitioner/Detenuue

Vs.

1.The Second Class Executive Magistrate,
Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram.

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

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

... Respondents

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records in M.C.No.107/2021(A3) on the file of the learned Second Class Executive Magistrate Cum Tahsildar, Ramanathapuram Taluk, Ramanathapuram District dated 26.03.2021 to set aside the same.

For Petitioner	: Mr.D.Balamurugapandi
For Respondents	: Mr.K.Suresh Kumar
	Government Advocate

ORDER

This petition has been filed to set aside the proceedings passed in M.C.No.107/2021(A3) dated 26.03.2021, on the file of the first respondent.

2.The second respondent referred a case in LIR.No.30 of 2021 under Section 110(e) of Cr.P.C., before the first respondent. In M.C.No.107/2021/A3, dated 01.03.2021 the petitioner executed a bond before the first respondent for maintaining good behavior for a period of one year. Subsequently, the petitioner involved in a case in Crime No.50 of 2021 under Sections 8(c) r/w. 20(b)(ii)(B) of NDPS Act. On the requisition of the second respondent, the first respondent passed the impugned order under Section 122(1)(b) of Cr.P.C., directing the petitioner to be in custody till 28.02.2022. Against that order, the petitioner preferred this revision petition.



3. On the side of the petitioner, it is stated that the impugned order was passed without application of mind. An opportunity was not given to the petitioner to put forth his case. In support of this contention, the judgments of this Court in the cases of **Selvam @ Selvaraj v. The Executive Magistrate cum Deputy Commissioner of Police** reported in 2017 (3) MLJ 430, **Devi v. The Executive Magistrate cum Deputy Commissioner of Police** reported in 2020 (6) CTC 157 and **Servam v. the Sub Divisional Executive Magistrate** in **Crl.R.C. (MD)No.235 of 2021** are cited and prayed the impugned order to be set aside.

4. On the side of the respondents, it is stated that the petitioner has executed the bond on 01.03.2021. But subsequently, he was remanded on 05.03.2021 in Crime No.50 of 2021 under Section 8(c) r/w. 20(b)(ii)(B) of NDPS Act. There is one previous case in Crime No.349 of 2020 under Sections 302, 109 and 201 IPC. Only after following all the procedures, the impugned order was passed by the first respondent and prayed the petition to be dismissed.

5. A perusal of the order reveals that the petitioner was produced before the first respondent on 23.03.2021 and again on 26.03.2021. Whether copies were furnished to the petitioner and whether the first respondent examined any other witnesses were not specifically mentioned in the impugned order. Considering the fact that the petitioner is having one more previous case under Section 302 IPC, this Court is inclined to set aside the impugned order with liberty to the respondents to initiate fresh proceedings, if it is so required.

6. In the result, the Criminal Revision Case is allowed. The petitioner is directed to be released forthwith, unless his presence is required in any other case.

Sd/-

Assistant Registrar (P & A)

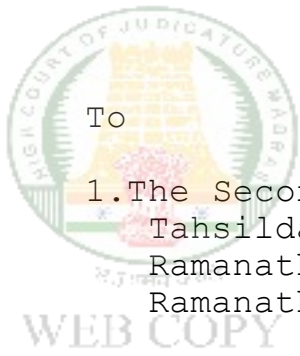
// True Copy //

/ /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 Second Class Executive Magistrate,
Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram.

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

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

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

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-37062[F] dated
02/12/2021)

CrI. R.C. (MD)No.469 of 2021
02.12.2021

RS (03.12.2021) 3P 6C