



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 03.02.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C. (MD) No. 721 of 2020

N.Saravanan @ Matta Kamby Saravanan

... Petitioner

Vs.

1.The Executive Magistrate cum Deputy Commissioner of Police,
Law and Order,
Madurai City.

2.The Inspector of Police,
Subramaniapuram Police Station (Law and Order),
Madurai City.

... Respondents

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records in order of the first respondent, the Executive Magistrate cum Deputy Commissioner of Police, Law and Order, Madurai City, vide proceedings M.C.192/Ni.Se.Na & Ka.Thu.Aa/Ma.Maa/2020 under Section 122 (1)(b) r/w. Section 117 of Cr.P.C, dated 25.08.2020 and to set aside the same.

For Petitioner : Mr.M.Gururaj

For Respondents : Mr.Bharathi Kannan
Government Advocate

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the first respondent, in M.C.192/Ni.Se.Na & Ka.Thu.Aa/ Ma.Maa/2020, under Section 122 (1)(b) r/w. Section 117 of Cr.P.C, dated 25.08.2020 .

2. On the report of the second respondent, the first respondent initiated proceedings in M.C. No.192 of 2020 and after enquiry the first respondent has obtained a bond from the revision petitioner to maintain good conduct for a period of one year on 06.03.2020. Subsequently, the petitioner was arrested on 31.07.2020 for his involvement in a criminal case in Crime No.1199 of 2020, under Sections 294(b), 392 r/w. Sections 397 and 506(ii) I.P.C. On the report of the second respondent, the first respondent



initiated proceedings under Section 122(1)(b) Cr.P.C. and passed the impugned order, on 25.08.2020. Against the impugned order, the petitioner preferred this Criminal Revision.

3. On the side of the revision petitioner, it is stated that the proceedings under Section 122(1)(b) r/w. 117 Cr.P.C. is not valid for a breach of bond executed under Section 110 Cr.P.C.. The ground for passing of the order is not clearly stated in the impugned order. No opportunity for the petitioner was given to be represented through an Advocate. The petitioner is in custody for the past five months. He was granted interim bail, since the father of the petitioner is bedridden and has been admitted in the Government Hospital, for blockage in the brain, subsequently, he promptly surrendered before the first respondent and prayed that the impugned order to be set aside.

4. On the side of the respondents, it is stated that the petitioner is a history sheeted offender and H.S.No.242 of 2018 was opened against him. He is having three previous cases, which reads as follows:

SI. No	Name of the Police Station	Crime No & Sections	Present stage of the case
1.	Subramaniapuram	Crime No.378/2017, U/s.109, 120(b), 147, 148, 149, 294(b), 307, 323, 324, 326, 448, 506(ii) I.P.C and Section 4 of TNPWH Act	PT
2.	Subramaniapuram	Crime No.50/2018 U/s. 302, 34 I.P.C.	PT
3.	Subramaniapuram	Crime No.727/2020 U/s. 147, 148, 307, 506(ii) I.P.C., Section 9 (b) (i) of Explosive Act	UI

All the procedures are scrupulously followed at the time of passing of the impugned order. The allegation against the petitioner is serious in nature. If the impugned order is set aside, there is every possibility for the petitioner to involve in criminal activities again and prayed the petition to be dismissed.

5. It is seen that the petitioner is in custody for the past five months and the period of detention is likely to be over within a short period. The petitioner was not given legal aid assistance. The first respondent failed to record his satisfaction.

6. In the above circumstances, this Court is inclined to set aside the order passed by the first respondent. Hence, the impugned order dated 25.08.2020, in M.C.192/Ni.Se.Na & Ka.Thu.Aa/Ma.Maa/2020, passed by the first respondent is hereby set



aside and this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

Ls

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 cum Deputy Commissioner of Police,
Law and Order, Madurai City.
- 2.The Inspector of Police,
Subramaniapuram Police Station (Law and Order), Madurai City.
- 3.The Superintendent of Prison,
Central Prison, Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C. (MD) No.721 of 2020
03.02.2021

(SV2)CO

AP(04/02/2021) 3P 5C