



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.733 of 2020

and

Crl.M.P.(MD)No.7850 of 2020

Pandi @ Pandian

.. Petitioner / Accused

Vs.

1.The Deputy Commissioner of Police,
Executive Magistrate, Trichy City.

2.The Inspector of Police,
Woraiyur Police Station,
Trichy.

3.The Superintendent of Jail,
Sub Jail, Jayakondam,
Ariyalur, Ariyalur District.

.. Respondents / Complainant

Prayer : This Revision Case filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records and to set aside the impugned proceedings in M.C.No.121 of 2020, dated 25.11.2020 passed by the first respondent under Section 122(1) (b) r/w. Section 111 of Cr.P.C.

For Petitioner

: Mr.B.Jameel Arasu

For Respondents

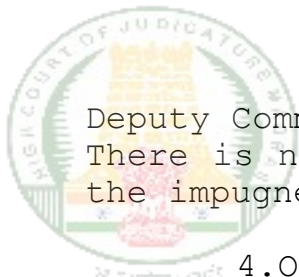
: Mrs.S.Bharathi
Government Advocate

ORDER

This revision has been filed to call for the records and to set aside the impugned proceedings in M.C.No.121 of 2020, dated 25.11.2020 passed by the first respondent under Section 122(1) (b) r/w. Section 111 of Cr.P.C.

2. The first respondent has passed an order of detention against the petitioner in M.C.No.121 of 2020, on 25.11.2020. Against the impugned order, the petitioner preferred this Criminal Revision.

3.On the side of the petitioner, it is stated that there is no material to show that the enquiry was conducted under Sections 116 and 117 Cr.P.C. No document was furnished to the petitioner. No legal assistance or opportunity was given to the petitioner. The



Deputy Commissioner of Police has no *locus standi* to pass the order. There is no previous case pending against the petitioner and prayed the impugned order to be set aside and the sentence to be suspended.

4. On the side of the respondents, it is stated that the petitioner has executed a bond for keeping good behavior, on 16.06.2020. Subsequently, the petitioner involved in another case in Crime No.536 of 2020, under Section 392 r/w. Section 397 I.P.C. On the report of the second respondent, the first respondent initiated proceedings in M.C.No.121 of 2020, under Section 122(1) (b) r/w. Section 111 of Cr.P.C. Only after giving sufficient opportunity to the petitioner, after proper enquiry and after following the procedures, the first respondent has passed the impugned order. The petitioner is a history sheeted offender in H.S.No.02 of 2020 was opened against him and prayed the petition to be dismissed.

5. It is seen that on the report of the second respondent in LIR No.06/G.H.P.S/L&O/TRC/2020, dated 30.05.2020, the first respondent orally enquired the petitioner and he obtained a bond from the petitioner, on 16.06.2020, for keeping good behavior for a period of one year. It is seen that the petitioner involved in an offence in Crime No.536 of 2020 under Section 392 r/w. Section 397 I.P.C. and he was arrested on 16.11.2020. On the intimation of the second respondent, the first respondent initiated the proceedings under Section 122 (1)(b) r/w. Section 111 Cr.P.C. and has passed the impugned order. A perusal of the impugned order reveals that only as a preventive measure, the petitioner was called upon to execute a bond on 16.06.2020. It is seen that the history sheet was opened only after the registration of the case in Crime No.536 of 2020 and not before that. It is seen that there is no previous cases reported against the petitioner. A perusal of the impugned order reveals that no opportunity was given to the petitioner for cross-examining the witnesses. Only on the basis of the evidence produced by the second respondent, the impugned order was passed by the first respondent. The first respondent has not recorded his satisfaction for passing the impugned order. Hence, for the above reasons, the impugned order passed by the first respondent, in M.C.No.121 of 2020, dated 25.11.2020, is set aside and the Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

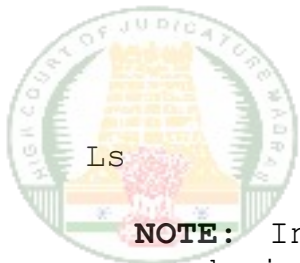
Sd/-

Assistant Registrar (AE)

// 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 Deputy Commissioner of Police,
Executive Magistrate,
Trichy City.
- 2.The Inspector of Police,
Woraiyur Police Station,
Trichy.
- 3.The Superintendent of Jail,
Sub Jail, Jayakondam,
Ariyalur, Ariyalur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai(2 Copies).

Crl. R.C.(MD)No.733 of 2020

20.01.2021

KG (CO)

NR (03/02/2021) 3P : 7C