



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.749 of 2021

and

Crl.M.P. (MD)Nos.8691 and 8692 of 2021

WEB COPY

Surya

.. Petitioner/Accused

Vs.

1.State rep. by

The II Class Executive Magistrate,
cum Tahsildar, Dindigul West,
Dindigul.

.. 1st Respondent/Executive Magistrate

2.The Sub-Inspector of Police,
Thadikombu Police Station,
Dindigul.

.. 2nd Respondent/Complainant

Prayer : This Revision Case is filed under Sections 397 r/w. Section 401 of Cr.P.C., to call for the records and to set aside the order passed by the II Class Executive Magistrate cum Tahsildar, in M.C.No.92/2021/A5, dated 21.09.2021 and to allow this Criminal Revision Petition.

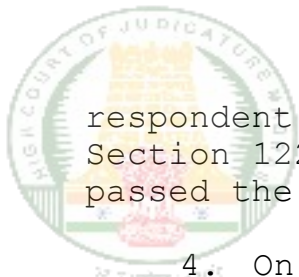
For Petitioner	: Mr.J.Imran Khan
For Respondents	: Mr.K.Sanjay Gandhi Government Advocate

ORDER

This Criminal Revision has been filed to set aside the order passed by the first respondent in M.C.No.92/2021/A5, dated 21.09.2021.

2. The petitioner executed a bond on 26.07.2021, to maintain good behavior for a period of six months, but, subsequently, the petitioner involved in another criminal case in Crime No.591 of 2021, under Section 392 of I.P.C. and an order under Section 122 (1) (b) of Cr.P.C. was initiated and the petitioner was detained from 30.07.2021. Against that order, the petitioner has preferred this Criminal Revision Case.

3.The second respondent registered a case against the petitioner under Section 110(e) of Cr.P.C in L.I.R. No.62 of 2021 and produced the petitioner before the first respondent. The petitioner executed a bond to maintain good behavior for a period of six months ie. from 26.07.2021 to 25.01.2022. Subsequently, on 30.07.2021, the petitioner involved in another criminal offence in Crime No.591 of 2021, under Section 392 of I.P.C. The second



respondent requested the first respondent to take proceeding under Section 122 (1) (b) of Cr.P.C. and thereafter, the first respondent passed the impugned order on 21.09.2021, in M.C.No.92/2021/A5.

4. On the side of the petitioner, it is stated that before passing the order, no enquiry was conducted by the first respondent. No opportunity was given to the petitioner to cross examine the witnesses. The proceedings under Section 122 (1) (b) of Cr.P.C cannot be initiated against the petitioner for breach of the bond for maintaining good behavior and prayed the impugned order to be set aside.

5. On the side of the prosecution, it is stated that sufficient opportunity was given to the petitioner. Summon was sent to the petitioner on 21.09.2021 and prayed the Revision to be dismissed.

6. A perusal of the records reveals that a case was registered in Crime No.883 of 2020, under Sections 294(b), 324 and 506(i) of I.P.C., dated 30.08.2020. It is seen that the second respondent referred a case to the first respondent under Section 110(e) of Cr.P.C. in L.I.R. No. 62 of 2021, on 21.07.2021. The petitioner executed a bond to maintain good behavior for a period of six months, on 26.07.2021, but, subsequently, another case in Crime No.591 of 2021, under Section 392 I.P.C. was registered against the petitioner. A perusal of the impugned order reveals that no enquiry was ever conducted by the first respondent. No show case notice was served on the petitioner. There is no proof that copies were furnished to the petitioner. Without conducting any enquiry, the impugned order was passed by the first respondent.

7. In the above circumstances, the impugned order, dated 21.09.2021, passed by the first respondent in M.C.No.92/2021/A5, is hereby set aside. This Criminal Revision Case is allowed. The petitioner is directed to be released forthwith, unless his presence is required in any other case. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True 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.

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



To

- 1.The II Class Executive Magistrate,
cum Tahsildar, Dindigul West,
Dindigul.
- 2.The Sub-Inspector of Police,
Thadikombu Police Station,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:-

The Superintendent,
District Prison,
Dindigul.

Crl. R.C.(MD)No.749 of 2021
09.11.2021

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