



WEB COPY

Crl. R.C. (MD) No. 814 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD) No. 814 of 2021

and

Crl. M.P. (MD) Nos. 9563 and 9564 of 2021

Ponnangan .. Petitioner / Respondent

Vs.

State rep. by

1. The II Class Executive Magistrate Cum Tahsildhar,
Dindigul West. .. 1st Respondent/ Executive
Magistrate

2. The Inspector of Police
Rettiyarchathram Police Station,
Dindigul District.
LIR.No.28 of 2021. .. 2nd Respondent/ Complainant

3. The Jailor, District Prison,
Dindigul. .. 3rd Respondent/ Respondent

Prayer : This Revision Case is filed under Sections 397 r/w. Section 401 of Cr.P.C., to call for the records relating to the order of the first respondent by his proceedings in M.C.No.66/2021/A5 dated 24.09.2021 and set aside the same as illegal and allow the above Criminal Revision Petition.

For Petitioner : Mr.M.Jegadeesh Pandian

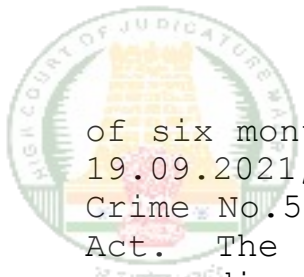
For Respondents : Mr.K.Sanjay Gandhi
Government Advocate

ORDER

This Criminal Revision has been filed to set aside the order passed by the first respondent in M.C.No.66/2021/A5, dated 24.09.2021

2. The second respondent registered a case against the petitioner under Section 110(e) of Cr.P.C in L.I.R. No.28 of 2021 and produced the petitioner before the first respondent. The petitioner executed a bond to maintain good behavior for a period

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



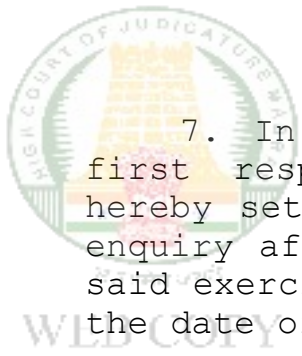
of six months ie. from 22.07.2021 to 21.01.2022. Subsequently, on 19.09.2021, the petitioner involved in another criminal offence in Crime No.572 of 2021, under Section 20(b) (ii)(B), 8 (c) of NDPS Act. The second respondent requested the first respondent to take proceeding under Section 122 (1) (b) of Cr.P.C. and thereafter, the first respondent passed the impugned order on 24.09.2021, in M.C.No.66/2021/A5. Against the impugned order, the petitioner has approached this Court by way of this Revision.

3. On the side of the petitioner, it is stated that an opportunity was not given to the petitioner to engage a Lawyer. No legal Aid assistant was given to the petitioner as per Article 21 of the Constitution of India. No opportunity was given to the petitioner to cross examine the witnesses and the order was passed on the same date of enquiry. No preliminary order under Section 111 of Cr.P.C. was passed by the first respondent. Without complying the procedures under Sections 111 and 112 of Cr.P.C., the impugned order was passed. The second respondent has no jurisdiction to register a criminal case under Section 110 (e) of Cr.P.C. The provision of law can be invoked only by an Executive Magistrate. The first respondent has not recorded his satisfaction under Section 110(g) and 116(4) of Cr.P.C., in the impugned order. Without conducting enquiry and without recording the evidence, the first respondent has passed the order and prayed the impugned order to be set aside.

4. On the side of the petitioner, it is further stated that in similar cases, this Court has set aside the impugned order. A Judgment of this Court reported in 201-2-M.L.J. Crl.556 (P.Sathish @ Sathish Kumar V. State rep. by the Inspector of Police) is cited.

5. On the side of the prosecution, it is stated that the petitioner has executed a bond on 22.07.2021 and has violated the bond condition on 19.09.2021 by his involvement in Crime No. 572 of 2021, under Section 20(b) (ii)(B), 8 (c) of NDPS Act. The petitioner is having 17 previous cases. The first respondent examined one witness and he has perused four documents, before passing the order and prayed the Revision to be dismissed.

6. A list of the previous cases against the petitioner was furnished by the prosecution. Out of the 17 cases, 10 cases were already disposed of. 8 cases are pending. 2 cases are pending, for taken on file. The petitioner is having 20 previous cases. The impugned order is not specific whether copies were furnished to the petitioner; whether opportunity was given to the petitioner to cross examine the witnesses and whether assistance of advocate was permitted by the first respondent.



7. In view of the same, the impugned order, passed by the first respondent in M.C.No.66/2021/A5, dated 24.09.2021, is hereby set aside. The first respondent is at liberty to conduct enquiry afresh and pass any suitable orders as per law. The above said exercise shall be completed within a period of one month from the date of receipt of copy of this order.

8. With the above direction, this Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

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 II Class Executive Magistrate Cum Tahsildhar,
Dindigul West.
- 2.The Inspector of Police
Rettiyarchathram Police Station,
Dindigul District.
LIR.No.28 of 2021.
- 3.The Jailor, District Prison,
Dindigul.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.