



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl.R.C.(MD)No.862 of 2021

and

Crl.M.P.(MD)No.10116 of 2021

Rajapandi

... Petitioner/Accused

vs.

1.State represented by

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

... 1st Respondent/
Executive Magistrate

2.The Sub-Inspector of Police,
Dindigul City South Police Station,
Dindigul.

... 2nd Respondent/Complainant

PRAYER : Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order passed by the learned II Class Executive Magistrate in M.C.No.136 of 2021/A5, dated 05.10.2021 and allow this Criminal Revision Petition.

For Petitioner : Mr.J.Imran Khan

For Respondents : Mrs.K.Asha
Government Advocate

O R D E R

This petition has been filed to set aside the impugned order dated 05.10.2021, in M.C.No.136 of 2021/A5, passed by the first respondent.

2. The second respondent referred a case in LIR No.113 of 2021 under Section 110 Cr.P.C. before the first respondent. The petitioner executed a bond before the first respondent, on 29.09.2021, to maintain good behavior for a period of 6 months, but, subsequently, the petitioner involved in another case in Crime No.569 of 2021 under Sections 323, 325, 341 and 506(i) IPC and he was remanded on 01.10.2021. On the information given by the second respondent, the first respondent initiated proceedings under Section 107 Cr.P.C. and passed the impugned order.



3.On the side of the petitioner, it is stated that no enquiry was conducted. No opportunity was given to the petitioner and prayed the order to be set aside.

4.On the side of the prosecution, it is stated that the petitioner has violated the bond condition, executed by him, in M.C.No.136 of 2021, dated 29.09.2021, and he indulged in an offence in Crime No.569 of 2021. The petitioner is a history sheeted rowdy and he has 10 previous cases. Out of which, 6 cases are disposed of, 2 cases are pending trial, 1 case has to be taken on file and 1 case is under investigation.

5.It is seen that the petitioner was called upon for an enquiry on 05.10.2021. The impugned order was passed on the same date. Whether copies were furnished to the petitioner, whether the petitioner was given opportunity to cross examine the witnesses were not mentioned in the impugned order. The objection raised by the petitioner was not discussed by the first respondent.

6.For the above reasons, the impugned order in M.C.No.136 of 2021/A5, dated 05.10.2021, is 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 petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csm/mga

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 Tahsildar, Dindigul West,
Dindigul.

2.The Sub-Inspector of Police,
Dindigul City South Police Station,
Dindigul.

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



3.The Superintendent/Officer in Charge,
Sub Jail,Vedasandur.

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

Crl.R.C. (MD) No.862 of 2021
and

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MGJ(08.12.2021) 3P 5C