



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 03.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI.RC(MD)No.890 of 2021

and

CrI.M.P.(MD)No.10600 of 2021

WEB COPY

Rajkannu @ Rajkannan

.. Petitioner / Respondent

Vs.

1.The Sub Divisional Magistrate and
Revenue Divisional Officer, Thanjavur

2.The Circle Inspector of Police,
Thiruvaiyaru Police Station,
Thiruvaiyaru Sub Division,
Thanjavur District.

.. Respondents/Petitioners

Prayer : This criminal revision case is filed under Section 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the order of the first respondent in MC.No.70 of 2021, dated 25.09.2021 and set aside the same.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mrs.M.Aasha,
Government Advocate

ORDER

This petition has been filed to set aside the order of the first respondent in MC.No.70 of 2021, dated 25.09.2021.

2. The petitioner executed a bond before the first respondent for maintaining good behavior for a period of one year from 20.03.2021 to 19.03.2022. Thereafter, a case was registered against the petitioner in Crime No.563/2021 under Sections 294(b), 324, 448 and 506(ii) of IPC. On the requisition of the second respondent, the first respondent passed an impugned order under Section 122(1)(b) r/w 117 of Cr.P.C., directing the petitioner to be in custody till 19.03.2022. Against that order, the petitioner preferred this revision petition.

3. On the side of the petitioner, it is stated that the petitioner has executed a bond on 20.03.2021. On 23.09.2021, a show cause notice was issued and the notice was served on the petitioner on 24.09.2021. The petitioner appeared before the

first respondent on 25.09.2021. No copies were furnished to the petitioner. No enquiry was conducted. On the same date itself, the impugned order was passed by the first respondent. In the impugned order, it is mentioned that reports from the Police and Revenue officials were received by the first respondent. However, the copies of the statements were not supplied to the petitioner and prayed the order to be set aside.

4. On the side of the respondents, it is stated that the petitioner has violated the bond executed on 23.03.2021 by involving in a subsequent offence. The petitioner is a History Sheeted person. A History Sheet in HS.No.306/2016 is maintained. The petitioner is having 15 previous cases. Most of the cases are serious in nature. Only after perusing the relevant documents and after proper proceedings, the impugned order was passed by the first respondent.

5. A perusal of the records reveals that the petitioner has executed a bond on 20.03.2021 to maintain good behavior for a period of one year. Subsequently, a case in Crime No.563/2021 was registered against the petitioner. The petitioner was arrested on 13.09.2021. A show cause notice was served on the petitioner on 24.09.2021. The petitioner was summoned to appear on 25.09.2021. Though the first respondent has mentioned that sufficient opportunity was given to the petitioner, it is seen that copies of the statements recorded by the first respondent were not furnished to the petitioner. The impugned order was passed on the same date of enquiry. Though it is mentioned that opportunity was provided to him to file objection either directly or through counsel, no such opportunity was given to the petitioner. It is seen that the petitioner is in custody for a period of two months from the date of the impugned order. In view of the above circumstances, the order passed by the first respondent in MC.No.70 of 2021, dated 25.09.2021 is set aside.

7. In the result, the Criminal Revision Case is allowed. The petitioner is directed to be released forthwith, unless his presence is required in any other case. Consequently, the 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 Sub Divisional Magistrate and
Revenue Divisional Officer, Thanjavur
- 2.The Circle Inspector of Police,
Thiruvaiyaru Police Station,
Thiruvaiyaru Sub Division,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Superintendent,
Central Prison, Trichy.
- 5.The Superintendent,
District Prison, Pudukkottai.

CrI. R.C. (MD) No.890 of 2021
03.12.2021

NSN(CO)
SB(09.12.2021) 3P 6C