



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.923 of 2021

Bhuvaneshwari

.. Petitioner/Respondent

Vs.

- 1.The II-Class Executive Magistrate cum
Revenue Tahsildar, Uthamapalayam,
Theni District. .. 1st Respondent/Executive Magistrate
- 2.The Inspector of Police,
Kombai Police Station,
Theni District. .. 2nd Respondent/Complainant
- 3.The Superintendent,
Special Prison for Women,
Madurai. .. 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 Na.Ka.No.9453/2021/A8, dated 26.11.2021 and set aside the same as illegal.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.R.Sureshkumar
Government Advocate

ORDER

This petition has been filed to set aside the proceedings passed in Na.Ka.No.9453/2021/A8, dated 26.11.2021, on the file of the first respondent.

2.The second respondent referred a case in LIR No.26 of 2021 under Section 110 of Cr.P.C, dated 09.08.2021 before the first respondent. In M.C.No.274 of 2021, the petitioner executed a bond on 01.10.2021 before the first respondent for maintaining good behavior for a period of one year. Subsequently, on 19.11.2021, the petitioner was arrested in a case in Crime No.363 of 2021 under Sections 8(c) r/w. 20(b) (ii) (B) of NDPS Act. On the requisition of the second respondent, the first respondent passed the impugned order under Section 122(1) (b) of Cr.P.C., directing the petitioner



to be in custody till 30.09.2022. Against that order, the petitioner preferred this revision petition.

3.On the side of the petitioner, it is stated that copies of the documents were not furnished to the petitioner, list of witness was not furnished and that no opportunity was given to the petitioner. No legal Aid assistant was given to the petitioner as per Article 21 of the Constitution of India and prayed the impugned order to be set aside.

4.On the side of the respondents, it is stated that the petitioner has executed a bond to maintain good behavior for a period of one year. Subsequently, he involved in an offences and has violated the condition imposed in the bond. The petitioner was having previous case of similar nature in Crime No.21 of 2021 under Section 8(c) and 20(b)(ii)(B) of NDPS Act. The first respondent after enquiry and after verifying the records, has passed the impugned order and prayed the petition to be dismissed.

5.A perusal of the records reveals that the enquiry was conducted on 26.11.2021 and the impugned order was passed on the same date. Whether copies were furnished to the petitioner and whether the petitioner was given opportunity to cross examine the witness were not stated in the impugned order. There is no discussion in the impugned order regarding the points raised by the petitioner. Hence, the impugned order is liable to be set aside.

6.In the above circumstances, the impugned order dated 26.11.2021 in Na.Ka.9453/2021/A8, passed by the first respondent is hereby set aside and this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS III)

// 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
Revenue Tahsildar, Uthamapalayam,

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



2.The Inspector of Police,
Kombai Police Station,
Theni District.

3.The Superintendent,
Special Prison for Women,
Madurai.

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

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MGJ(28.12.2021) 3P 5C