



WEB COPY

Crl.RC.No.1388 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1388 of 2022 &
Crl.M.P.No.15400 of 2022

Vicky @ Vigneshwaran

... Petitioner

Vs.

1.The Sub Divisional Magistrate (North)
Puducherry.

2.The Station House Officer,
Lawspet Police Station,
Puducherry.

... Respondents

Prayer: Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order dated 02.09.2022 made in M.C.No.135 of 2022 of I.R.No.60 of 2022, on the file of the Sub Divisional Magistrate (North) Puducherry.

For Petitioner : Mr.B.Thiyagarajan

For Respondents : Mr.V.Balamurugane PP (Pondy)

ORDER

The Criminal Revision has been filed to set aside the order passed by the learned Sub Divisional Magistrate (North), Puducherry.



2. On 10.08.2022, the petitioner along with 3 others came to one Tmt.Kala's house, resident of Lawspet/defacto complainant and threatened her and 3 other women with knife to pay him a sum of Rs.30,000/- or he will spoil their names, as if they are engaged in prostitution in the locality and the petitioner also snatched a sum of Rs.2000/- and locked the house confining two of her accomplices demanding to pay the balance amount of Rs.28,000/-. Therefore, Tmt.Kala along with two others lodged a complaint as against the petitioner. Hence, the case has been registered against the petitioner in Crime No.135 of 2022 for the offences under Section 448, 342, 386 IPC r/w 34 IPC.

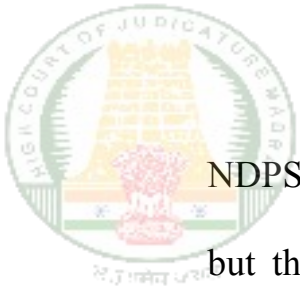
3. On 21.06.2022, a report under Section 110 Cr.P.C., came to be forwarded to the learned Sub Divisional Magistrate (North) Puduchery, who in turn passed an order under Section 111 Cr.P.C., on 23.06.2022. Therefore on 27.06.2022, the petitioner executed the bond under Section 111 Cr.P.C., for good behaviour for a period of one year and subsequently, the petitioner was arrested for the crime No.135 of 2022 on 11.08.2022 and remanded to the judicial custody. The Court below passed an order under Section 122(1)(b) Cr.P.C., and issued summons to cancel the good behaviour bond



for violation and detained the petitioner for the remaining period in M.C.No.135 of 2022. Challenging the said order, the petitioner has filed the present Revision Petition.

4. The learned counsel appearing for the petitioner would submit that the petitioner was not involved any of the cases and the prosecution has violated the procedure under Section 122 Cr.P.C., and the prosecution has not proved that the petitioner is involved any other cases, pending bond executed by the petitioner. Further, the learned counsel appearing for the petitioner would submit that the principle of natural justice have not been followed and with regard to detaining the petitioner, the Court below has not passed any detailed order and therefore, the order passed by the Court below is liable to be set aside.

5. When the matter came up on 08.11.2022, the learned Public Prosecutor (Pondicherry) sought adjournment for getting instructions. Though the learned Public Prosecutor relying upon the impugned order, it is stated that the petitioner is a history-sheeter and previously he involved in 12 more cases viz., two murder, three attempt to murder, one robbery, one



NDPS etc., totaling 12 cases in Puduchery and Tamil Nadu Police Station, but the learned Public Prosecutor is not in a position to give the proper details, as to in how many cases, investigation completed, charge sheets are filed, pending trial cases and how many cases the petitioner is acquitted from the charges etc.,

6. Even assuming the petitioner was involved in the murder and also attempt to murder and in NDPS cases, all are only non cognizable offence and therefore, they might have obtained the bail and if at all after obtaining the bail, if he was involved in any one of the serious cases, definitely the State would have taken steps for cancellation of the bail bond. Further, the learned Public Prosecutor would submit that the petitioner was detained under Goondas and also subsequently, the same was quashed by this Court, which would clearly show that the petitioner was detained under the Goondas and the same was closed. It could be seen that the learned Public Prosecutor is not able to substantiate that during the bond period executed by the petitioner under Section 110 Cr.P.C., the petitioner breached the bond condition and he was involved in other cases for the offences under Section 386 and 34 IPC.



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7. Therefore, under the circumstances, this Court finds that the prosecution has not followed the procedures as contemplated under Section 122 Cr.P.C., and the order passed by the learned Sub-Divisional Magistrate is set aside. However, it is open for the respondent to move the appropriate Court for cancellation of bail bond, if he is involved in any other cases, which are all serious in nature.

8. In view of the above, the Criminal Revision is allowed by setting aside the order of the Sub Divisional Magistrate (North) Puducherry dated 02.09.2022 made in M.C.No.135 of 2022 of I.R.No.60 of 2022. Consequently, connected Miscellaneous Petition is closed.

14.11.2022

Index :Yes/No
Internet:Yes/No
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P.VELMURUGAN,J.
pbn

To

- 1.The Sub Divisional Magistrate (North) Puducherry.
- 2.The Station House Officer,
Lawspet Police Station,
Puducherry.
- 3.The Public Prosecutor, (Pondicherry) Madras High Court

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