



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 07.01.2022

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.12 of 2022

and

Crl.M.P. (MD)No.244 of 2022

Mottakundu @ Ganeshamoorthy

.. Petitioner / Detenu

Vs.

1.The Sub Divsional Magistrate/
The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thanjavur District.

2.The Inspector of Police,
Town West Police Station,
Thanjavur Sub Division,
Thanjavur District.

3.The Superintendent of Prison,
Central Prison,
Trichy.

.. Respondents

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records connected with the order passed by the first respondent in M.C.No.76/2021/A3 order dated 01.12.2021 against the petitioner namely Mottakundu @ Ganeshamoorthy, S/o. Thangamani, Male aged about 26 years, now confining at Central Prison, Trichy who is detained at Central Prison, Trichy and to set aside the same as illegal.

For Petitioner : Mr.K.M.Karunakaran

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate

ORDER

This petition has been filed to set aside the proceedings passed in M.C.No.76/2021/A3 dated 01.12.2021, on the file of the first respondent.



2.The second respondent referred a case before the first respondent. On 30.03.2021, the petitioner executed a bond before the first respondent for maintaining good behavior for a period of one year. Subsequently, the petitioner involved in a case in Crime No.1652 of 2021 under Sections 294(b), 307 and 506(ii) of IPC. On the requisition of the second respondent, the first respondent passed the impugned order under Section 122(1)(b) r/w. 117 of Cr.P.C., directing the petitioner to be in custody till 29.03.2022. Against that order, the petitioner preferred this revision petition.

3.On the side of the petitioner, it is stated that the revision petitioner has executed a bond on 30.03.2021. Subsequently, a false case was foisted against the petitioner on 24.11.2021. The petitioner was produced before the first respondent on 01.12.2021 and on the same date, the impugned order was passed against the petitioner. The petitioner was not given an opportunity to cross examine any witness. The copies were not furnished to the petitioner. The petitioner is in custody for the past 45 days and prayed the impugned order to be set aside.

4.On the side of the respondents, it is stated that the petitioner is a habitual offender and a history sheet No.443 of 2017 was maintained against him. The petitioner is having 13 previous cases. He is a threat to the peace of the society. He has executed a bond under Section 107 of Cr.P.C., to maintain good behavior for a period of one year, which ends on 29.03.2022. Subsequently, the petitioner involved in Crime No.1652 of 2021. The enquiry was done in the presence of the petitioner. An opportunity was given to the petitioner. The impugned order was passed on merits and prayed the petition to be dismissed.

5.It is seen that the second respondent referred a case under Section 107 of Cr.P.C., before the first respondent. The first respondent has obtained a bond from the petitioner on 30.03.2021 to maintain good behavior for a period of one year from 30.03.2021 till 29.03.2022. Subsequently, a case in Crime No.1652 of 2021 under Sections 294(b), 307 and 506(ii) of IPC was registered against the petitioner. The petitioner was arrested on 23.11.2021. The first respondent initiated proceedings under Section 122(1)(b) r/w. 117 of Cr.P.C., The copies were furnished to the petitioner. But no witness was examined by the first respondent. No opportunity was given to the petitioner to put forth his case. No enquiry was conducted. The impugned order was passed on the same date of appearance of the petitioner. It is seen that the petitioner is having 12 previous cases including a murder case. In the above circumstances, the impugned order is liable to be set aside. The respondents are at liberty to take fresh action in accordance with law, if needed.

6.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, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

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10 /01/2022

Sub Assistant Registrar(CS-III)

Mrn

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/
The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thanjavur District.
- 2.The Inspector of Police,
Town West Police Station,
Thanjavur Sub Division,
Thanjavur District.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.12 of 2022
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RD(10.01.2022) 3P 5C