



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 28.01.2022

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.15 of 2022

Latha .. Petitioner/Respondent

Vs.

- 1.The II Class Executive Magistrate Cum
Revenue Tahsildar, Uthamapalayam,
Theni District. ... 1st Respondent/
Executive Magistrate
- 2.The Inspector of Police,
Cumbum North Police Station, Theni District.
(LIR No.29 of 2021) ... 2nd Respondent/Complainant
- 3.The Superintendent,
Special Prison for Women,
Madurai. .. 3rd Respondent/Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 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.10287/2021/A8 dated 17.12.2021 and to set aside the same as illegal.

For Petitioner	: Mr.M.Jegadeesh Pandian
For Respondents	: Mr.K.Sanjay Gandhi, Government Advocate

ORDER

This petition has been filed to set aside the proceedings passed in Na.Ka.No.10287/2021/A8, dated 17.12.2021, on the file of the first respondent.

2.The second respondent referred a case in LIR.No.29 of 2021 before the first respondent. On 19.07.2021 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.731 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 18.07.2022 Against that order, the petitioner preferred this revision petition.



3.On the side of the petitioner, it is stated that the petitioner was called for enquiry on 15.12.2021 and the impugned order was passed on 17.12.2021. The copies of the document were not furnished to the petitioner. No opportunity for engaging an advocate was given to the petitioner. The procedures are not properly followed and prayed the impugned order to be set aside.

4.On the side of the respondents, it is stated that the petitioner executed a bond on 19.07.2021 and he violated the bond conditions and indulged in an offence in Crime No.731 of 2021. He is a habitual offender and he is having six previous cases, which are similar in nature. The impugned order was properly passed by the first respondent and prayed the petition to be dismissed.

5.A perusal of the impugned order reveals that the impugned order is silent whether copies were furnished to the petitioner. The impugned order is not specific when the witness was examined, whether the witness was cross examined by the petitioner and whether the petitioner was given opportunity to engage an advocate. The pleadings of the petitioner was not discussed by the first respondent. The petitioner is in custody for the past one month and in the above circumstances, the impugned order is liable to be set aside. If there is necessity, the first respondent is at liberty to take fresh action in accordance with law.

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.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 II Class Executive Magistrate Cum
Revenue Tahsildar, Uthamapalayam,
Theni District.

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



2.The Inspector of Police,
Cumbum North Police Station, Theni District.

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

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

Crl. R.C. (MD) No.15 of 2022
28.01.2022

BK (CO)
MGJ(31.01.2022) 3P 5C