



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 25.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.44 of 2022

Balamurugan

.. Petitioner

Vs.

1.The Sub Divisional Executive Magistrate and
Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

2.The Sub Inspector of Police,
Amathoor Police Station,
Virudhunagar District.

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

.. Respondents

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the order passed in M.C.No.323 of 2021, on the file of the Sub Divisional Magistrate and Revenue Divisional Officer, Aruppukottai, Virudhunagar District dated 28.12.2021 and to set aside the same.

For Petitioner

: Mr.S.Saravanakumar

For Respondents

: Mr.K.Sanjay Gandhi,
Government Advocate

ORDER

This petition has been filed to set aside the proceedings passed in M.C.No.323 of 2021, dated 28.12.2021, on the file of the Sub Divisional Magistrate and Revenue Divisional Officer, Aruppukottai, Virudhunagar District.

2.The second respondent referred a case in LIR.No.10 of 2021 before the first respondent. In M.C.No.323/2021, dated 18.10.2021 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.218 of 2021 under Sections 341, 294(b) and 307 of IPC. On the requisition of the



second respondent, the first respondent passed the impugned order under Section 122(1)(b) of Cr.P.C. Against that order, the petitioner preferred this revision petition.

3. On the side of the petitioner, it is stated that the petitioner executed a bond on 18.10.2021 for maintaining good behavior. But subsequently, a false case was foisted against the petitioner. No opportunity was given to the petitioner. The enquiry was not conducted in the proper manner and prayed the impugned order to be set aside.

4. On the side of the respondents, it is stated that on 18.10.2021, the petitioner executed a bond under Section 110 of Cr.P.C. But he has violated the bond conditions and subsequently, a case was registered in Crime No.218 of 2021. Only after conducting proper enquiry, the impugned order was passed by the first respondent. The petitioner is having nine previous cases and prayed the petition to be dismissed.

5. A perusal of the impugned order reveals that the petitioner was produced before the first respondent on 23.12.2021 and copies were furnished to him on that date. The enquiry was adjourned to 27.12.2021. The counsel for the petitioner was present on 28.12.2021. It is stated that though opportunity was given to the petitioner to cross examine the witness, he failed to do so. A perusal of records reveals that the enquiry was conducted on 28.12.2021 and on the same date, the impugned order was passed by the first respondent. The contention of the petitioner was not at all discussed by the first respondent in the impugned order. Only a vague observation that the petitioner failed to cross examination the witness was stated in the impugned order. Without mentioning the representations made by the advocate, the impugned order was passed by the first respondent which is not proper. 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.

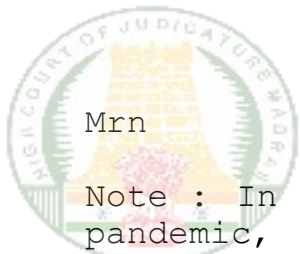
Sd/-

Assistant Registrar ()

// 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 Sub Divisional Executive Magistrate and
Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
- 2.The Sub Inspector of Police,
Amathoor Police Station,
Virudhunagar District.
- 3.The Superintendent of Prison,
The Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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PK(CO)
TR(28.01.2022) 3P 5C