



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 31.01.2022

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD)No.37 of 2022

WEB COPY

Saravanan @ Pondugan Saravanan .. Petitioner/Respondents

Vs.

- 1.The Administrative Executive Magistrate cum
The Deputy Commissioner of Police (North)
Madurai City. ... 1st Respondent/Executive Magistrate
- 2.The Inspector of Police,
D2 Sellur (L&O) Police Station,
Madurai city. ... 2nd Respondents / complainant
3. The Superintendent,
Central Prison, Madurai. .. 3rd Respondent/Respondent

Prayer : This criminal revision case is filed under Section 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 M.C.No.1667/Ne.Sae.Na & Ka.Thu,Aa/Ma.Maa/2021, dated 12.01.2022 and to set aside the same as illegal and allow the criminal revision petition as prayed for.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.K.Sanjay Gandhi
Government Advocate

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the first respondent, in M.C.No.1667 / Ne. Sae. Na & Ka. Thu. Aa/ Ma.Maa/2021, dated 12.01.2022.

2.The second respondent referred a matter under Section 110 Cr.P.C to the first respondent. The first respondent took up the matter on file as M.C.No.1667 / 2021. Before the first respondent, the petitioner has executed a bond on 12.11.2021, to maintain peace for a period of one year. Subsequently, on 26.12.2021, the petitioner involved in an offence in Crime No.1070 of 2021, under Sections 8(c) r/w. Section 20(b)(iii)(B), 29 (1) of NDPS Act. On the request of the second respondent, the first respondent initiated proceedings under Section 122 (1)(b) Cr.P.C. and passed the impugned order. Against the impugned order, the petitioner preferred this Criminal Revision.



3. On the side of the petitioner, it is stated that the petitioner was produced before the first respondent on 05.01.2022 and on 07.01.2022 and the impugned order was passed on 12.01.2022. No opportunity was given to the petitioner to engage an Advocate. Free legal aid assistance was not given to the petitioner. A judgment of this Court reported in 2019 (2) MLJ (Criminal) 556 [P.Sathich @ Sathish Kumar V. State rep. by the Inspector of Police] was cited on the side of the petitioner and prayed the impugned order to be set aside.

4. On the side of the respondents, it is stated that the petitioner violated the bond conditions and indulged in an offence in Crime No.1070 of 2021 and the petitioner was arrested on the same date. Sufficient opportunity was given to the petitioner. Three witnesses were examined in the presence of the petitioner. Only after proper enquiry, the impugned order was passed by the first respondent and prayed the petition to be dismissed.

5. A perusal of the records reveals that the copies of the documents were furnished to the petitioner along with the P.T. Warrant. On 03.01.2022, three witnesses were examined in the presence of the petitioner and since the petitioner seeks time for cross examining the witnesses, the matter was adjourned to 07.01.2022. On 07.01.2022, the petitioner cross-examined two witnesses and asked for adjournment for cross-examination of the third witness. On 12.01.2022, the petitioner cross examined the third witness. The first respondent did not discuss anything regarding the contents of the cross examination done by the petitioner. The case of the petitioner was not discussed. The prosecution has admitted that the petitioner is having no previous case.

6. It is seen that the petitioner is in custody for the past 37 days. It is seen that there is no discussion regarding the case of the petitioner in the impugned order. The petitioner is having no previous case.

7. In the above circumstances, the impugned order, dated 12.01.2022, in in M.C.No.1667/Ne.Sae.Na & Ka.Thu,Aa/Ma.Maa/2021, passed by the first respondent is hereby set aside and this 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(CS-I)

// True Copy //

/ /2022

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 Administrative Executive Magistrate cum
The Deputy Commissioner of Police (North)
Madurai City.
- 2.The Inspector of Police,
D2 Sellur (L&O) Police Station,
Madurai city.
3. The Superintendent,
Central Prison, Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.37 of 2022
31.01.2022

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