



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.412 of 2022

and

Crl.M.P(MD)No.5312 of 2022

WEB COPY

Muthumani @ Thottal

... Petitioner/Detenu

Vs.

1.The Executive Magistrate and Deputy
Commissioner of Police (South),
Office of the Executive Magistrate and Deputy Commissioner,
Madurai City, Madurai.

2.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai District.

3.The Inspector of Police,
Subramaniapuram Police Station,
Madurai District.

4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records connected with the order passed by the respondent No.1 in M.C.No.946/நி.செ.ந & கா.து.ஆ/ம.மா/2021, dated 12.04.2021 on the file of the respondent No.1 till the disposal of the main Criminal Revision Petition.

For Petitioner : Mr.R.Alagumani

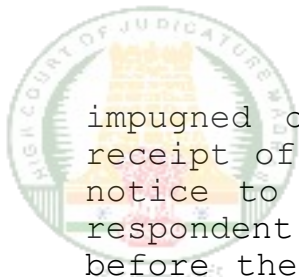
For Respondents : Ms.M.Aasha

Government Advocate (Crl.side)

ORDER

This petition has been filed to set aside the order made in M.C.No.946/நி.செ.ந & கா.து.ஆ/ம.மா/2021, dated 12.04.2021 passed by the first respondent police.

2.The petitioner had executed a bond on 10.08.2021 in M.C.No.2946 of 2021 for a sum of Rs.1,00,000/- for a period of one year under Section 110 of Cr.P.C. While pending bond period, the petitioner again involed in the case registered in Cr.No.168 of 2022 on 27.03.2022 registered for the offence under Section 8(c)r/w 120 (b)(ii)(B) of NDPS Act. In pursuant to the registration of FIR, the petitioner was arrested and remanded to judicial custody. The second respondent recommended the first respondent to pass the



impugned order against the petitioner in M.C.No.946 of 2021. On receipt of the said request, the first respondent issued show cause notice to the petitioner on 05.04.2022 to appear before the first respondent on 07.04.2022. Accordingly the petitioner was produced before the first respondent on 07.04.2022. Further at the request of the petitioner it was adjourned to 11.04.2022 for the reasons that he seeks time to engage the counsel on his behalf. Again on 11.04.2022 another notice was served to the petitioner to appear for enquiry on 12.04.2022. On 12.04.2022 the respondent conducted detailed enquiry, in which, the prosecution witness have been examined in which, the petitioner cross examined some of the witnesses produced by the second respondent. After giving opportunity of hearing to the petitioner and again to give opportunity to engage the counsel, the order of the impugned in this revision has been passed by the first respondent herein.

3.The learned counsel for the petitioner submitted that the petitioner was not given opportunity of hearing and on the date of hearing namely on 12.04.2022 itself the impugned order has been passed without giving opportunity to engage the counsel on his behalf. He further submitted that the first respondent has no jurisdiction to initiate the proceedings under Section 122(1)(B) of Cr.P.C, when the petitioner executed a bond under Section 110 of Cr.P.C.

4.On perusal of records as stated supra the petitioner was given enough opportunity to putforth this case before the first respondent through his counsel. In fact, third time at the request of the petitioner enquiry was adjourned and finally on 12.04.2022 enquiry was conducted, in which, the petitioner has cross examined some of the prosecution witnesses. So far as the proceedings initiated under Section 122 (1)(b) of Cr.P.C. is concerned the petitioner has executed a bond under Section 110 of Cr.P.C., as such the first respondent has no jurisdiction to initiate the proceedings under Section 122(1)(b) of Cr.P.C. as against the petitioner. That apart, the petitioner has involved in a case under NDPS Act. Therefore, the first respondent has rightly detained the petitioner for the remaining bond period till 09.08.2022 and this Court finds no infirmity or illegality in the order passed by the first respondent.

5.In view of the above, Criminal Revision Petition is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

- 1.The Executive Magistrate and Deputy Commissioner of Police (South)
Office of the Executive Magistrate and Deputy Commissioner,
Madurai City,
Madurai.
- 2.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai District.
- 3.The Inspector of Police,
Subramaniapuram Police Station,
Madurai District.
- 4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.R.C (MD) No.412 of 2022
and
CrI.M.P (MD) No.5312 of 2022
27.04.2022

RS (25.05.2022) 3P-6C