



Crl. R.C. (MD)No.964 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 08.11.2022

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

CRL. R.C.(MD)No.964 of 2022

and

Crl.M.P.(MD)No.11902 of 2022

Arumugasamy

.. Petitioner

- Vs -

1.The Sub Divisional Executive Magistrate cum
Sub Collector,
Sivakasi,
Virudhunagar District.

2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

3.The Sub-Inspector of Police,
Maraneri Police Station,
Virudhunagar District.

.. Respondents

PRAYER: Criminal Revision Case filed u/s 401 of the Code of Criminal Procedure, to call for the entire records in relating tot he impugned order dated 29.08.2022 made in M.C.No.16/2022 on the file of the first respondent and to set aside the same as arbitrary and to set the petitioner at his liberty.



For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.S.Manikandan

Government Advocate (Crl.Side)

ORDER

This revision petition has been filed against the order passed by the first respondent herein in M.C.No.16 of 2022, dated 29.08.2022.

2.The brief facts are:

The revision petitioner had executed a bond on 15.12.2021 in M.C.No.16 of 2022 to keep good behavior. But, violating the aforesaid bond that was executed by him, the petitioner indulged in crime, which was registered in Crime No.62 2022 under Sections 294(b), 341, 342, 307 of IPC. As per the report submitted by the Inspector of Police, Sivakasi Town, proceeding under Section 122 (1) (b) of Cr.P.C., was initiated against the revision petitioner.

3.On the side of the prosecution, two witnesses were examined and they were also examined by the revision petitioner through his advocate. At the conclusion of enquiry, it was found that the petitioner was already



facing charges in Crime No.1104 of 2020 for the offence under Section 147, 148 and 302 of IPC, Crime No.38 of 2018 for the offence under Section 294(b) of IPC and in Crime No.305 of 2019 for the offence under Section 109 of IPC and hence, the petitioner was ordered to be in imprisonment till 14.02.2023.

4. Challenging the aforesaid order, this revision has been preferred mainly on the ground that in LIR No.3 of 2022, proceedings were initiated under Section 110 (e) of Cr.P.C., and hence, he executed a bond for keeping good behavior on 15.12.2021.

5. The learned counsel for the revision petitioner submitted that against the bond that was executed under Section 110 (e) of Cr.P.C., proceeding under Section 122(1)(b) of Cr.P.C is not liable. For that purpose, he straight away relied upon an unreported judgment of this Court in ***Devi Vs. The Executive Magistrate cum Deputy Commissioner of Police, St. Thomas Mount District and others in*** CrI.R.C.No.78 of 2020, dated 25.09.2020. In the said case, two issues were taken up. The first issue is whether violation of bond, which was executed under Section 110(e) of Cr.P.C., is amenable for proceedings under Section 122(1)(b) of



Cr.P.C., and the second issue is whether the Deputy commissioner of Police is competent to initiate action under the above said provision.

6. With regard to the second issue, we are not concerned. Regarding the first issue only, we are concerned. Hence, this Court straight away went to the observation, that has been made with regard to the second issue, that for the breach of bond that is executed for maintaining good behavior under Section 110(e) Cr.P.C., no proceedings will lie under Section 122 (1)(b) of Cr.P.C.. Because the aforesaid proceedings can be initiated only when, there is breach of bond, which was executed for keeping peace. Noting that the coordinate bench of this Court has taken a contra view with regard to the aforesaid issue, now the matter is pending before the larger bench. Till the authoritative pronouncement is made in this regard, this happens to be the latest judgment to be followed.

7. The present case on hand is also with regard to the execution of bond under Section 110(e) Cr.P.C.. As noted above, on the violation of the bond for keeping good behavior, proceedings under Section 122 (1)(b) Cr.P.C., is not amenable. So, on this ground, the revision preferred by the revision petitioner is liable to be allowed. Accordingly, this revision



petition is allowed. The petitioner is ordered to be released forthwith, if he is not required in any other cases. Consequently, connected miscellaneous petition is also closed.

08.11.2022

Index : Yes/No

Internet : Yes/No

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To

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Sub Collector,
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Virudhunagar District.
- 2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 3.The Sub-Inspector of Police,
Maraneri Police Station,
Virudhunagar District.
Mayanur Police Station,
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J.

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