



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.01.2022
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.965 of 2021

and

Crl.M.P.(MD)No.11726 of 2021

Kathiresan

.. Petitioner

Vs.

1.The Sub Divisional Executive Magistrate Cum
Revenue Divisional Officer,
Kulithalai Taluk, Karur District.

..1st Respondent

2.The Inspector of Police,
Kulithalai Police Station,
Karur District.
(Cr.No. 967 of 2021).

..2nd Respondent

Prayer : This Revision Case is filed under Sections 397 and 401 of Cr.P.C., to call for the records and to set aside the order dated 14.12.2021 made in Na.Ka.A3/3881/2021 (MC.No.13/2021) on the file of Sub Divisional Executive Magistrate cum Revenue Divisional Officer, Kulithalai, Karur District and to allow the Criminal Revision.

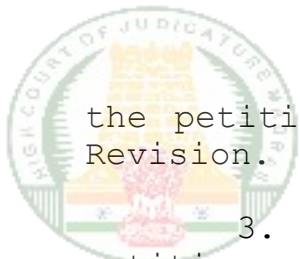
For Petitioner
For Respondents

: Mr.M.Suresh
: Mrs.M.Aasha
Government Advocate

ORDER

This Criminal Revision has been filed to set aside the order, dated 14.12.2021, made in Na.Ka.A3/3881/2021 (M.C.No.13/2021), on the file of the Sub Divisional Executive Magistrate cum Revenue Divisional Officer, Kulithalai, Karur District.

2. The second respondent registered a case against the petitioner in C.No.4 of 2021, under Section 110 of Cr.P.C. The first respondent initiated proceedings in M.C.No.13 of 2021. On 21.01.2021, the petitioner executed a bond to maintain good behavior for a period of three years. Subsequently, the petitioner involved in another criminal offence in Crime No.805 of 2021, under Section 8 (c) r/w. Section 20(b) (II)(B) of NDPS Act. Again, a case was registered against the petitioner in Crime No.967 of 2021, under Sections 387 and 506(ii) of I.P.C. On the information given by the second respondent, the first respondent initiated proceedings under Section 122 (1) (b) of Cr.P.C. and thereafter, the first respondent passed the impugned order. Against the impugned order,



the petitioner has approached this Court by way of this Criminal Revision.

3. On the side of the petitioner, it is stated that the petitioner was arrested on 10.12.2021, while he was in custody, he was produced before the first respondent. No notice was served on the petitioner. Copies were not furnished to the petitioner. No opportunity was given to the petitioner. Execution of a bond for a period of three years itself is not valid and prayed the impugned order to be set aside.

4. On the side of the prosecution, it is stated that the petitioner is a history sheeted offender and H.S.No.11 of 2020 was maintained against him. The petitioner is having three other cases, including a murder case. Only after perusing all the records and on enquiry, the first respondent has passed the impugned order and prayed the Revision to be dismissed.

5. A perusal of the records reveals that there is nothing stated in the order regarding the serving of notice to the petitioner. Whether copies were furnished to the petitioner, whether an opportunity was given to the petitioner were not mentioned in the impugned order. It is seen that the first respondent did not examine any witnesses and did not peruse any documents. Only based on the information given by the second respondent, the impugned order was passed. The statement of the petitioner was not recorded. No enquiry was conducted by the first respondent.

6. For the above said reasons, the impugned order, dated 14.12.2021 made in Na.Ka.A3/3881/2021 (MC.No.13/2021) on the file of Sub Divisional Executive Magistrate cum Revenue Divisional Officer, Kulithalai, Karur District, is hereby set aside. The petitioner is directed to be released forthwith, unless his presence is required in any other case.

7. Considering the nature of the offence, this Court grant liberty to the first respondent to initiate fresh proceedings as per law in case of necessity.

8. With the above direction, this Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

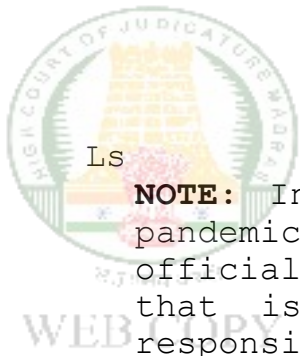
Sd/-

Assistant Registrar (AD-II)

// 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 Sub Divisional Executive Magistrate Cum
Revenue Divisional Officer,
Kulithalai Taluk, Karur District.
- 2.The Inspector of Police,
Kulithalai Police Station,
Karur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Officer Incharge,
Sub Jail, Kulithalai

Crl. R.C.(MD)No.965 of 2021
04.01.2022

SR(CO)
KB(04.01.2022) 3P 5C