



Crl.R.C.No.617 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.617 of 2023
and Crl.M.P.No.4685 of 2023

Suganraj

... Petitioner

/vs/

1. Sub Collector,
Subordinate Administrative Magistrate,
Tindivanam,
Villupuram – 604 301.

2. The Inspector of Police,
Brammadesam Police Station,
Tindivanam

... Respondents

Prayer : Criminal Revision Case filed under section 397 and 401 of Cr.P.C, to set aside the order dated 28.02.2023 passed by the 1st respondent / Subordinate Administrative Magistrate-Cum-Sub Collector, Tindivanam, Villupuram District in Na.Ka.A1/953/2023 (M.C.A.No.1/74/2023) pursuant to the bond executed under Section 110 Cr.P.C on the file of the 1st respondent.

For petitioner
For Respondents

... Mr.G.Mohammed Aseef
... Mr.R.Vinothraja,
Government Advocate (Crl.Side)



ORDER

Challenging the order dated 28.02.2023 passed by the 1st respondent in Na.Ka.A1/953/2023 (M.C.A.No.1/74/2023), this Criminal Revision is filed by the petitioner.

2.The learned counsel for the petitioner would submit that the 1st respondent passed an order, by his proceedings in Na.Ka.A1/953/2023 (M.C.A.No.1/74/2023) under Section 122(1) (b) Cr.P.C and remanded the petitioner till 01.06.2023. This impugned order is unsustainable, in view of the judgment of the Division Bench of this Court dated **13.03.2023** in ***Cr.R.C.No.137 of 2018 batch cases [P.Sathish @ Sathis Kumar Vs State Rep by The Inspector of Police, Law and Order, H-4 Korukkupet Police Station, Chennai]***. Therefore, he seeks to set aside the impugned order passed by the 1st respondent.

3.The learned Government Advocate (Crl.Side) appearing for the respondents fairly conceded that the 1st respondent is not competent authority to pass an order under Section 122(1)(b) Cr.P.C.



4.I have considered the matter in the light of submissions of the learned counsel for the petitioner and the respondents.

5.On perusal of the records and the impugned order, it reveals that the 1st respondent in pursuance of the complaint given by the 2nd respondent, The Inspector of Police, Brammadesam Police Station, Tindivanam proceeded the proceedings against the petitioner under Section 110 Cr.P.C and directed to execute the bond. Since the petitioner has violated the bond executed before the Administrative Magistrate, the 1st respondent proceeded against him under Section 122(1)(b) Cr.P.C and finally ordered to remand him till 01.06.2023. The impugned order passed by the 1st respondent dated 28.02.2023 in Na.Ka.A1/953/2023 (M.C.A.No.1/74/2023) is unsustainable, in view of the order of the Division Bench of this Court dated **13.03.2023** in ***Cr.R.C.No.137 of 2018 batch cases [P.Sathish @ Sathis Kumar Vs State Rep by The Inspector of Police, Law and Order, H-4 Korukkupet Police Station, Chennai]***, wherein, this Court relied on the judgement of the Hon'ble Supreme Court reported in ***(1982) 1 SCC 71 [Gulam Abbas Vs State of Uttar Pradesh]***. In paragraph 80 (e) of the said order dated 13.03.2023, it has been held as follows:-



*“80 (e) In the light of the law laid down in paragraph 24 of the three judge bench decision of the Supreme Court in **Gulam Abbas Vs State of Uttar Pradesh** (1982) 1 SCC 71, an Executive Magistrate cannot authorize imprisonment under Section 123(1)(b) for violation of a bond under Section 107 Cr.P.C. A person who has violated the bond executed before the Executive Magistrate under the said provision will have to be challenged or prosecuted before the Judicial Magistrate for inquiry and punishment under Section 122(1)(b)Cr.P.C”*

6.In the light of the above, the 1st respondent is not competent authority to impose any punishment under Section 122(1)(b)Cr.P.C. Therefore, the impugned order passed by the 1st respondent is set aside and the Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

03.04.2023

srn



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1. The Sub Collector,
Subordinate Administrative Magistrate,
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Villupuram – 604 301.
2. The Inspector of Police,
Brammadesam Police Station,
Tindivanam
3. The Superintendent of Prison,
Central Jail, Villupuram.



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V.SIVAGNANAM, J.

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