



Crl.R.C.No.1259 of 2023
and Crl.M.P.No.10002 of 2023

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DATED : 14.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1259 of 2023
and Crl.M.P.No.10002 of 2023

Jamal @ Jamaludeen

... Petitioner

Vs.

1.Sub Divisional Executive Magistrate,
and Revenue Divisional Officer,
Villupuram.

2.The State by Inspector of Police,
Kottakuppam Police Station,
Villupuram.

3.The Superintendent,
Vadampattu Prison,
District Jail, Villupuram

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973 to set aside the order made in M.C.No.152/2022 dated 16.03.2023 on the file of the learned Sub Divisional Executive Magistrate, Villupuram.

For Petitioner : Mr.V.Sairam

For Respondents : Mr.J.Subbiah, GA (Crl.side)



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ORDER

The present criminal revision petition is filed seeking to set aside the order dated 16.03.2023 passed by the learned Sub Divisional Executive Magistrate, Villupuram u/s.122(1)(b) Cr.P.C. in M.C.No.152/2022.

2. The learned counsel for the petitioner would submit that the first respondent had initiated proceedings against the petitioner u/s.110 Cr.P.C. and directed him to execute a bond for good behaviour on 16.03.2023 for a sum of Rs.10,000/- for a period of ten months. Subsequently, criminal cases were registered against the revision petitioner

- i. In Crime No.68/2023 of Kandamangalam Police Station for the offences punishable under Section 7(1)(a) CLA Act, 2005 dated 03.03.2023 ; and
- ii. In Crime No.69/2023 of Kandamangalam Police Station for the offences punishable under Sections 452 and 395 IPC.



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Since the revision petitioner violated the condition of the bond which he executed u/s.110 Cr.P.C, the Revenue Divisional Officer initiated proceedings u/s.122(1)(b) r/w.117 Cr.P.C. and remanded the petitioner to undergo imprisonment until the expiry of the period of bond.

3. A Division Bench of this Court in ***Crl.R.C.No.137/2018 batch cases*** dated 13.03.2023 ***[P.Sathish @ Sathis Kumar Vs. State Rep. by the Inspector of Police, Law and Order, H-4, Korukkupet Police Station, Chennai]***, relied on the judgment 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 21.06.2023, 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



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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?"

Thus it is very clear from the decision of the Division Bench of this Court that the first respondent is not the competent authority to impose any punishment u/s.122(1)(b) r/w.117 Cr.P.C. Therefore, the impugned order passed by the first respondent is liable to be set aside.

4. With the above observations, the present Criminal Revision is allowed and the order dated 16.03.2023 in MC/152/2022 on the file of the learned Sub Divisional Executive Magistrate, Villupuram is set aside. No costs. Consequently, connected Criminal Miscellaneous Petition is closed.

14.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
mtl

To

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Villupuram.

2.The State by Inspector of Police,
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Villupuram.

3.The Superintendent,
Vadampattu Prison,
District Jail, Villupuram.

4.The Section Officer,
Criminal Section, High Court, Madras.

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