



Crl.R.C.No.1262 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

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

Crl.R.C.No.1262 of 2023

Dinesh Kumar @ Elu @ Elupaiyan

... Petitioner

Vs.

1. The State rep. by
The Inspector of Police,
B-2, R.S.Puram Law and Order Police Station,
Coimbatore City.

2. The Administrative Executive Magistrate,
cum Deputy Commissioner of Police (North),
Coimbatore City.

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, to set aside the order, dated 31.01.2023 passed by the Administrative Executive Magistrate cum Deputy Commissioner of Police (North), Coimbatore City in M.P.No.11 of 2022 in Na.Ka.No. 343/Nir.Se.Nadu/Ka.thu.Aa/(North)Ko.Ma/2022, dated 15.12.2022.

For Petitioner : Mr.L.Mouli

For Respondents : Mr.J.Subbiah,

Government Advocate (Crl.side)



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ORDER

The present criminal revision is directed against the proceedings of the Deputy Commissioner of Police (North) in M.P.No.11 of 2022 in ந.க.எண்:343/நிர்.செ.நடு/கா.து.ஆ/(வடக்கு)கோ.மா/2022, Dated 31.01.2023.

2. The Deputy Commissioner of Police (North) on 15.12.2022 had directed the present Revision Petitioner to execute a bond for a sum of Rs.50,000/- for maintaining good behaviour for a period of one year under Section 110 Cr.P.C., Subsequently, a case in Crime No.222 / 2022 of B-3 Hall Road Police Station has been registered against the Revision petitioner for the offences under Sections 448, 294(b), 323 and 506 (ii) I.P.C. Therefore, the Deputy Commissioner of Police (North) initiated proceedings under Section 122 of Cr.P.C., and directed the revision petitioner to undergo imprisonment for a period of 318 days vide proceedings dated 31.01.2023 in M.P.No.11 of 2022, Challenging the same, the present Revision Petition has been filed.



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3. Mr.L.Mouli, learned counsel for the petitioner relied on the Division Bench decision 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]***, and contended that the Deputy Commissioner of Police (North) has no jurisdiction to initiate proceedings under Sections 107 and 110 of Cr.P.C., and only the Executive Magistrate has got such a power. In paragraph 90 of the said order dated 13.03.2023, it has been held as follows:-

“90.In the light of the declaration issued in paragraph 82(a), supra, it must necessarily follow that the proceedings initiated by the Deputy Commissioner of Police under Section 107-110 Cr.PC., must be held to be non-est since they lack jurisdiction. Accordingly, Crl.RC.Nos. 751, 754, 772, 773, 790, 822, 858, 859, 861, 865, 867, 868, 873, 891, 892, 921, 924, 938, 954, 957, 963, 993, 1013, 1022, 1023, 1027, 1028, 1031, 1061, 1072, 1086, 1094, 1096, 1098 of 2020, Crl.OP.Nos. 14993, 15027, 15028, 14926, 14919, 15031, 916 of 2021, Crl.RC.Nos.317, 724, 1006, 1604, 1012 of 2022 and Crl.RC.Nos.329, 701 of 2023 are allowed and the proceedings initiated by the concerned Deputy Commissioner will stand set aside.”

4. Thus, it is very clear from the decision of the Division Bench of this Court that the Deputy Commissioner of Police (North) is



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not the competent authority to initiate proceedings under Section 110 Cr.P.C., and to impose punishment under Section 122 of Cr.P.C. Therefore, the impugned order passed by the Deputy Commissioner of Police (North) is liable to be set aside.

5. In the result, the present Criminal Revision is allowed and the order dated 31.01.2023 in M.C.No.11/2022 is set aside. The petitioner / accused is directed to be released forthwith if his presence is not otherwise required in connection with any other case.

17.07.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

Issue order copy on 17.07.2023

To

1. The Inspector of Police,
B-2, R.S.Puram Law and Order Police Station,

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2. The Administrative Executive Magistrate,
cum Deputy Commissioner of Police (North),
Coimbatore City.
3. The Central Prison,
Coimbatore.
3. The Section Officer,
Criminal Section,
Madras High Court, Chennai.

R. HEMALATHA, J.



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