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Crl.R.C.No.1183 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1183 of 2023 &  
Crl.M.P.No.9216 of 2023

Mr. Dilip @ DMR

... Petitioner

Vs.

1. The State, represented by  
its Sub- Divisional Executive Magistrate  
and Revenue Divisional Officer,  
Arakkonam.
2. The Inspector of Police,  
Arakkonam Town Police Station,  
Ranipet District.

... Respondents

**PRAYER:** Criminal Revision Case filed under Sections 397 r/w.401 Cr.P.C., to call for the records pertaining to proceedings in Na.Ka.Aa/1/1456/2023, dated 17.05.2023 passed by the 1<sup>st</sup> respondent to set aside the same by allowing this revision petition.

For Petitioner : Mr.D.Balaji.

For Respondents : Mr.R. Vinoth Raja,  
Govt.Advocate (crl.side)

**ORDER**



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Challenging the order dated 17.05.2023 passed by the 1<sup>st</sup> respondent in Na.Ka.Aa/1/1456/2023, this Criminal Revision is filed by the petitioner.

2. The learned counsel for the petitioner would submit that the 1<sup>st</sup> respondent, in pursuance of the complaint given by 2<sup>nd</sup> respondent, initiated proceedings against the petitioner and made him to execute a bond on 11.05.2023 under section 110 of Cr.P.C., for maintaining good behaviour for a period two years from the date of execution of bond. Subsequently, a case has been registered against the petitioner on 13.05.2023 in Cr.No. 207 of 2023 for the offence under sections 147, 294(b), 506(ii) IPC. Since the petitioner violated the bond condition, based on a complaint given by the 2<sup>nd</sup> respondent, the 1<sup>st</sup> respondent, proceeded against the petitioner under section 122(1)(b) of Cr.P.C., and remanded the petitioner to prison by his proceedings in Na.Ka.Aa/1/1456/2023, dated 17.05.2023 to undergo imprisonment until the expiry of the period of bond viz., 11.05.2025.

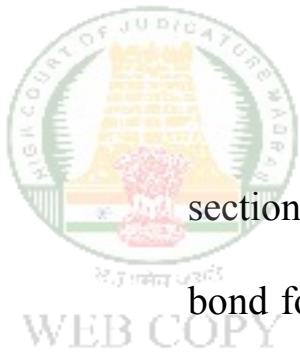


3. He further submitted that in view of the judgment of the Division Bench of this Court dated **13.03.2023** in ***Cr.R.C.No.137 of 2018 batch cases [P.Sathish @ Sathis Kumar Vs State Rep by The Inspector of Police, Law and Order, H-4 Korukkupet Police Station, Chennai]***, the impugned order passed by the 1<sup>st</sup> respondent is unsustainable, Therefore, he seeks to set aside the impugned order passed by the 1<sup>st</sup> respondent.

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

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

6.On perusal of the records and the impugned order, it reveals that the 1<sup>st</sup> respondent in pursuance of the report given by the 2nd respondent- Inspector of Police, Arakkonam Town Police Station, Ranipet District, initiated proceedings under section 107 of Cr.P.C., against the petitioner and directed to him to execute a bond for keeping good behaviour under



section 110 of Cr.P.C., pursuant to which, on 11.05.2023, he executed a bond for keeping good behaviour for a period of two years from the date of execution of bond i.e., 11.05.2023. Since the petitioner has violated the bond executed before the Executive Magistrate, the 1<sup>st</sup> respondent proceeded against him under Section 122(1)(b) of Cr.P.C and finally remanded him to undergo imprisonment for the remaining period of the bond till 11.05.2025.

7. It is relevant to note that in the order dated 13.03.2023 passed by 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*



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*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”*

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

30.06.2023

msr

Index : yes/no

Internet: yes/no

Note: Issue copy on 05.07.2023

To

1. The Sub Divisional Executive Magistrate,  
and Revenue Divisional Officer,  
Arakkonam.
2. The Inspector of Police,  
Arakkonam Town Police Station,  
Ranipet District.
3. The Superintendent,  
Central Prison, Vellore.
4. The Public Prosecutor, High Court, Madras

**V.SIVAGNANAM, J.**



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