



Crl.R.C.No.1236 of 2023
and Crl.M.P.No.9677 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM

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

Crl.R.C.No.1236 of 2023
and Crl.M.P.No.9677 of 2023

D.Murugan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Chengalpattu District.

2.The Deputy Superintendent of Police,
Mamallapuram Sub-Division,
Chengalpattur District.

3.The Inspector of Police,
E-6, Thiruporur Police Station,
Chengalpattu District.
(Crime No.208/2023)

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973 to set aside the order made in M.C.No.A1/150/2022 dated 12.06.2023 on the file of the Hon'ble District Sub Division Magistrate and Revenue Divisional Officer at Chengalpattu.

For Petitioner : Mr.L.Ramu

For Respondent : 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 20.09.2022 passed by the Revenue Divisional Officer u/s.122(1)(b) r/w.117 Cr.P.C. in M.C.No.A1/150/2022.

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 20.09.2022 for a sum of Rs.1,00,000/- for a period of one year. Subsequently, on 28.05.2023, a case was registered against the present revision petitioner in Crime No.208/2023 of E-6, Thiruporur Police Station, Chengalpattu District for the offences punishable u/s.4(1)(a), 4(1-A) of TNP Act r/w. Section 6 & 11 of Rectified Spirit Rules 2000. 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.



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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 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 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 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?"



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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 12.06.2023 in M.C.No.A1/150/2022 on the file of the Hon'ble District Sub Division Magistrate and Revenue Divisional Officer at Chengalpattu is set aside. No costs.

12.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

Issue order copy on 14.07.2023



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R. HEMALATHA, J.
mtl

To

- 1.The Revenue Divisional Officer,
Chengalpattu District.
- 2.The Deputy Superintendent of Police,
Mamallapuram Sub-Division,
Chengalpattur District.
- 3.The Inspector of Police,
E-6, Thiruporur Police Station,
Chengalpattu District.
- 4.The Section Officer,
Criminal Section, High Court, Madras.

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