



Crl.R.C.No.1449 of 2023
and Crl.M.P.No.12641 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM

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

Crl.R.C.No.1449 of 2023
and Crl.M.P.No.12641 of 2023

Balaji

... Petitioner

Vs.

1. The Sub Divisional Magistrate
cum Revenue Divisional Officer,
Thiruvallur,
Thiruvallur District.

2. The Inspector of Police,
C1, Uthukottai Police Station,
Thiruvallur District.

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, to set aside the order passed in Na.Ka.No.1777/2022/A7, dated 31.03.2023 on the file of the first respondent.

For Petitioner : Mr.M.P.Saravanan

For Respondents : Mr.R.Vinothraja, GA (Crl.side)



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ORDER

The present criminal revision is filed seeking to set aside the order dated 31.03.2023 passed by the 1st respondent / Sub Divisional Magistrate cum Revenue Divisional Officer, Thiruvallur Sub-Division, Thiruvallur, Thiruvallur District u/s.122(1)(b) r/w. 111 and 117 of Cr.P.C., in Na.Ka.No.1777/2022/A7.

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 02.01.2023 for a period of one year. Subsequently, a criminal case was registered against the petitioner in Crime No.100/2023 of C1 Uthukottai Police Station for the offences punishable under Sections 457, 380 I.P.C. on 26.02.2023.

3. Since the revision petitioner violated the condition of the bond which was executed u/s.110 Cr.P.C, the Sub Divisional Magistrate cum Revenue Divisional Officer, Thiruvallur initiated proceedings



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u/s.122(1)(b) r/w. 111 and 117 of Cr.P.C., and remanded the petitioner to undergo imprisonment until the expiry of the period of bond.

4. 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 Magistrate under the said provision will have to be



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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) Cr.P.C. Therefore, the impugned order passed by the first respondent is liable to be set aside.

5. With the above observations, the present Criminal Revision is allowed and the order dated 31.03.2023 in Na.Ka.No.1777/2022/A7 on the file of the learned Sub Divisional Magistrate cum Revenue Divisional Officer, Thiruvallur is set aside. Consequently, connected Criminal Miscellaneous Petition is closed.

18.08.2023

Index: Yes/No
Speaking/Non-Speaking order
vum
Note: Issue order copy on 21.08.2023



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- To
1. The Sub Divisional Magistrate
cum Revenue Divisional Officer,
Thiruvallur.
 2. The Inspector of Police,
C1, Uthukottai Police Station,
Thiruvallur District.
 3. The Superintendent of Police,
Central Prison, Puzhal, Chennai.



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R. HEMALATHA, J.

vum

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