



Crl.R.C.No.1342 of 2023
and Crl.M.P.No.11115 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

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

Crl.R.C.No.1342 of 2023
and Crl.M.P.No.11115 of 2023

Amudha

... Petitioner

Vs.

1. First Class executive Magistrate
cum Revenue Divisional Officer,
Udayarpalayam Sub-Division,
Udayarpalayam,
Ariyalur District.

2. State Rep. by
Inspector of Police,
Andimadam Police Station,
Andimadam, Ariyalur District.

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, to set aside the order passed in Na.Ka.A3/1774/2023, dated 28.06.2023 on the file of the first respondent.

For Petitioner : Mr.M.Rajkumar

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



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ORDER

The present criminal revision petition is filed seeking to set aside the order dated 28.06.2023 passed by the 1st respondent / First Class executive Magistrate cum Revenue Divisional Officer, Udayarpalayam Sub-Division, Udayarpalayam, Ariyalur District u/s.122(1)(b) Cr.P.C. in Na.Ka.A3/1774/2023.

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 her to execute a bond for good behaviour on 16.05.2023 for a sum of Rs.10,000/- for a period of one year. Subsequently, a criminal case was registered in Crime No.147/2023 of Andimadam Police Station, Ariyalur for the offences punishable under Sections 4 (1)(k), 4(1-A) TNP Act, dated 08.06.2023.

3. Since the revision petitioner violated the condition of the bond which was executed u/s.110 Cr.P.C, the First Class executive Magistrate cum Revenue Divisional Officer, Udayarpalayam Sub-



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Division, Udayarpalayam, Ariyalur District initiated proceedings u/s.122(1)(b) 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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*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) 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 28.06.2023 in Na.Ka.A3/1774/2023 on the file of the learned First Class executive Magistrate cum Revenue Divisional Officer, Udayarpalayam, Ariyalur District is set aside. Consequently, connected Criminal Miscellaneous Petition is closed.

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

1. The First Class executive Magistrate
cum Revenue Divisional Officer,
Udayarpalayam Sub-Division,
Udayarpalayam,
Ariyalur District.
2. The Inspector of Police,
Andimadam Police Station,
Andimadam, Ariyalur District.
3. The Section Officer,
Criminal Section, High Court, Madras.



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R. HEMALATHA, J.

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