



Crl.R.C.No.1562 of 2023
and Crl.M.P.No.14357 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

CORAM

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

Crl.R.C.No.1562 of 2023
and Crl.M.P.No.14357 of 2023

Vishnu

... Petitioner

Vs.

1.The Executive Magistrate cum
Deputy Commissioner of Police, south,
Coimbatore City.

2.The State rep. by
the Inspector of Police,
T4, Kuniyamuthur Law and Order Police Station,
Coimbatore City.

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, to call for the records and to set aside the orders made in Na.Ka.No.126/Nir.Se.Nadu/Kaa.Thu.Aa/(South)Ko.Ma/2023 dated 24.01.2023 on the file of the 1st respondent/ learned Executive Magistrate cum Deputy Commissioner of Police, South, Coimbatore.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.S.Sugendran,
Additional Public Prosecutor



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ORDER

The present criminal revision petition is filed seeking to set aside the order dated 24.01.2023 passed by the learned Executive Magistrate cum Deputy Commissioner of Police, South, Coimbatore u/s. 122 (1) (b) Cr.P.C. in Na.Ka.No. 126/ Nir.Se.Nadu /Kaa.Thu.Aa /(South) Ko.Ma/2023.

2. 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 24.12.2022 for a period of one year. Subsequently, a criminal case was registered against the revision petitioner in Crime No.16/2023 of T4 Kuniyamuthur Police Station, Coimbatore District for the offences punishable under Sections 294(b), 324, 506(ii) I.P.C., dated 26.12.2022.

3. Since the revision petitioner violated the conditions of the bond which he executed u/s.110 Cr.P.C, the learned Executive Magistrate cum Deputy Commissioner of Police south, Coimbatore



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District initiated proceedings u/s.122(1)(b) 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]***, relying on the judgment of the Hon'ble Supreme Court reported in ***(1982) 1 SCC 71 [Gulam Abbas Vs State of Uttar Pradesh]*** held in paragraph 80 (e) thus:-

"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



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5. 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.

6. With the above observations, the present Criminal Revision is allowed and the order dated 24.01.2023 in Na.Ka.No.126/Nir.Se.Nadu/Kaa.Thu.Aa/(South) Ko.Ma/2023 on the file of the learned Executive Magistrate cum Deputy Commissioner of Police south, Coimbatore District is set aside. Consequently, connected Criminal Miscellaneous Petition is closed.

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



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- To
- 1.The Executive Magistrate cum
Deputy Commissioner of Police, south,
Coimbatore City.
 - 2.The Inspector of Police,
T4, Kuniyamuthur Law and Order Police Station,
Coimbatore City.
 3. The Superintendent of Police,
Central Prison, Coimbatore.

R. HEMALATHA, J.



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