



Crl.R.C.No.1522 of 2023
and Crl.M.P.No.13790 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

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

Crl.R.C.No.1522 of 2023
and Crl.M.P.No.13790 of 2023

Raju @ Raja

... Petitioner

Vs.

1.The Sub Divisional Executive Magistrate
cum Sub Collector,
Hosur, Krishnagiri District.

2.The State rep. by
the Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.

... Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, to call for the records and set aside the order made in V.No.258/2022 (p1) dated 24.08.2023 on the file of the learned Sub Divisional Executive Magistrate cum Sub Collector, Hosur, Krishnagiri District.

For Petitioner : Mr.R.Sankarasubbu

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



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ORDER

The present criminal revision petition is filed seeking to set aside the order dated 24.08.2023 passed by the learned Sub Divisional Executive Magistrate cum Sub Collector, Hosur, Krishnagiri District u/s.122(1)(b) Cr.P.C. in V.No.258/2022 (p1).

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 07.10.2022 for a sum of Rs.50,000/- for a period of one year. Subsequently, the following criminal cases were registered against the revision petitioner:

- i. In Crime No.158/2023 of Hudco Police Station, Hosur for the offences punishable under Sections 151 Cr.P.C., r/w. 7(1)(A) CLA Act, dated 21.05.2023 ; and
- ii. In Crime No.198/2023 of Hudco Police Station, Hosur for the offences punishable under Sections 294(b), 323, 506 (i) I.P.C., dated 19.06.2023.



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Since the revision petitioner violated the conditions of the bond which he executed u/s.110 Cr.P.C, the Sub Divisional Executive Magistrate cum Sub Collector 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.

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 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



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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?"

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.

4. With the above observations, the present Criminal Revision is allowed and the order dated 24.08.2023 in V.No.258/2022 (p1) on the file of the learned Sub Divisional Executive Magistrate cum Sub Collector, Hosur, Krishnagiri District is set aside. Consequently, connected Criminal Miscellaneous Petition is closed.

31.08.2023

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



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- To
- 1 The Sub Divisional Executive Magistrate
cum Sub Collector,
Hosur, Krishnagiri District
 2. The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.
 3. The Superintendent of Police,
Central Prison, Salem.



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vum

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