



Crl.R.C.No.1629 of 2023
and Crl.M.P.No.15320 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

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

Crl.R.C.No.1629 of 2023
and Crl.M.P.No.15320 of 2023

Barkat

... Petitioner

Vs.

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

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

... Respondents

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code 1973 to set aside the orders dated 24.08.2023 made in V.No.167/2022(P1) on the file of the first respondent.

For Petitioner : Mr.S.Sengkodi

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



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ORDER

Challenging the orders dated 24.08.2023 made in V.No.167/2022(P1) on the file of the Sub Divisional Executive Magistrate Cum Sub Collector, Hosur, Krishnagiri District, the present revision is filed.

2. The learned counsel for the revision 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 under Section 117 Cr.P.C. for good behaviour on 06.04.2023 for a sum of Rs.20,000/- for a period of one year. Subsequently, on 02.06.2023, the following cases were registered against the present revision petitioner :

- i. Crime No.254/2023 of Hosur Town Police Station, Krishnagiri District for the offences punishable u/s.294(b), 323, 324, 506(i) IPC.
- ii. Crime No.255/2023 of Hosur Town Police Station, Krishnagiri District for the offences punishable u/s.294(b), 324, 506(i) IPC.



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iii. Crime No.256/2023 of Hosur Town Police Station, Krishnagiri

District for the offences punishable u/s.294(b), 323, 506(i) IPC.

iv. Crime No.258/2023 of Hosur Town Police Station, Krishnagiri

District for the offences punishable u/s.294(b), 506(i) IPC.

Since the revision petitioner violated the condition of the bond which he executed u/s.117 Cr.P.C, the Sub Divisional Executive Magistrate Cum Sub Collector, Hosur, Krishnagiri 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.

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:-



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"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?"

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. Consequently, connected Criminal Miscellaneous Petition is closed. The orders dated 24.08.2023 made in V.No.167/2022(P1) on the



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file of the Sub Divisional Executive Magistrate Cum Sub Collector,

Hosur, Krishnagiri District, is set aside.

26.09.2023

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

To

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

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

3.The Superintendent of Prison,
Central Prison, Salem.



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R. HEMALATHA, J.
mtl

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