



CRL MP(MD) No.10272 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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(Criminal Jurisdiction)

Friday, the Twenty First day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice DR. D. NAGARJUN

CRL MP(MD) No.10272 of 2023

in

CRL OP(MD) No.13140 of 2023

MANICKANATHAN

... PETITIONER/ ACCUSED

Vs

1 THE SECOND-CLASS EXECUTIVE MAGISTRATE CUM TAHSILDAR,
KADALADI TALUK,
RAMANATHAPURAM DISTRICT.

2 THE INSPECTOR OF POLICE
MUDHUKULATHUR POLICE STATION,
RAMANATHAPURAM DISTRICT.

... RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Detention imposed against the petitioner order passed by the learned Principal Sessions Judge, Ramanathapuram in Crl.R.P.No.37 of 2022 dated 30.01.2023 which confirming the Judgment of conviction and sentence passed by the Second Class Executive Magistrate and Tahsildar, Kadaladi in M.C.No.144/2022 dated 26.10.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Original Petition.

Prayer in CRL OP(MD). 13140/ 2023 :

To set aside the order passed by the Learned Principal Sessions Judge, Ramanathapuram in Crl.R.P.No.37 / 2022 dated 30.01.2023 which confirming the Judgment of conviction and sentence passed by the second-class executive Magistrate

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and Tahsildar, Kadaladi in M.C.No.144/2022 dated 26.10.2022 as illegal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KARUPPASAMY PANDIYAN.G, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Crl.Side) on behalf of the Respondents, while admitting the Criminal Original Petition, the court made the following order:-

This petition is filed to suspend the detention order imposed upon the petitioner by the learned Principal Sessions Judge, Ramanathapuram in Crl.R.P.No.37 of 2022 dated 30.01.2023, confirming the order passed by the learned Second-Class Executive Magistrate and Tahsildar, Kadaladi, in M.C.No.144/2022 dated 26.10.2022.

2.Since as per the decision of this Court in the case of P.Sathish @ Sathish Kumar Vs. The Inspector of Police, Law and Order, Chennai and another reported in (2023) 2 MLJ (Crl.) 144, the Executive Magistrate cannot imprison any person under Section 122(1)(b) Cr.P.C., for violation of bond under Section 107 Cr.P.C., the sentence imposed upon the petitioner by the learned Principal Sessions Judge, Ramanathapuram in Crl.R.P.No.37 of 2022 dated 30.01.2023, confirming the order passed by the learned Second-Class Executive Magistrate and Tahsildar, Kadaladi, in M.C.No.144/2022 dated 26.10.2022 is erroneous.

3.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended, pending disposal of the Criminal Original Petition on the following conditions:-



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(i) The petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Kadaladi.

(ii) The petitioner shall also appear before the respondent police on every Monday at 10.30 a.m., until further orders.

sd/-
21/07/2023

/ TRUE COPY /

24/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE PRINCIPAL SESSIONS JUDGE, RAMANATHAPURAM DISTRICT.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, KADALADI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

4 THE SECOND-CLASS EXECUTIVE MAGISTRATE CUM TAHSILDAR,
KADALADI TALUK, RAMANATHAPURAM DISTRICT.

5 THE INSPECTOR OF POLICE
MUDHUKULATHUR POLICE STATION,
RAMANATHAPURAM DISTRICT.

6 THE OFFICER INCHARGE
DISTRICT PRISON, RAMANATHAPURAM DISTRICT.

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7 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S. KARUPPASAMY PANDIYAN.G Advocate SR.No.11065[I]

ORDER IN
CRL MP(MD) No.10272 of 2023
in CRL OP(MD) No.13140 of 2023
Date :21/07/2023

RS/BUC/SAR-(24.07.2023) 4P 9C
Madurai Bench of Madras High Court is issuing
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