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W.P.No.12713 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.12713 of 2024
& WMP.Nos.13877 & 13879 of 2024

R.Subramanian

... Petitioner

Vs.

1.State Represented by
Deputy Superintendent of Police,
Economic Offences Wing – II,
Guindy, Chennai – 32.

2.The Superintendent of Central Prison-1,
Puzhal, Chennai – 600 066.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, in respect of the order dated 22.12.2023 of the Special Court for TNPID Act Chennai dismissing CrI MP 4652/2023 calling for records relating to the order passed by the respondent and quash the same.



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For Petitioner : Mr.R.Subramanian,
(Party-In-Person)
For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein had filed a petition in CrI.M.P.No.4652 of 2023 in C.C.No.6 of 2020 before the Special Court under the TNPID Act, Chennai seeking for a direction to the first respondent herein to extend “A” class facilities to him, while under imprisonment in the Central Prison, Puzhal, Chennai. His petition came to be rejected through the impugned order dated 22.12.2023 predominantly on the ground that he has failed to pay the fine amount as per the final sentence of the Judgment of the Special Court under TNPID Act, Chennai, dated 20.11.2023 and by taking into account the gravity of the offence committed by the petitioner, which has resulted in serious prejudice to the society as well as the pendency of the appeal against the Judgment dated 20.11.2023 before this Court. The petitioner had invoked the extra-ordinary jurisdiction of this Court under



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Article 226 of the Constitution of India and has challenged the rejection order dated 22.12.2023 in this Writ Petition.

2.The petitioner, as a party-in-person had appeared through video conferencing and when we had raised the preliminary issue of maintainability of the Writ Petition against the judicial order passed by a Special Court under the TANPID Act, the petitioner placed reliance on a decision of the Hon'ble Supreme Court in ***Radhey Shyam and another Vs. Chhabi Nath and others*** reported in ***[2015 5 SCC 423]*** and submitted that the orders of the Civil Courts subordinate to the High Court are not amenable to the Writ Jurisdiction under Article 226 of the Constitution of India, and since the present order assailed in the Writ Petition is by a Criminal Court, the Writ Petition is maintainable.

3.We are unable to endorse such a submission made by the petitioner for two reasons; (1) firstly, the decision in ***Surya Dev Rai Vs. Ram Chander Rai*** reported in ***[2003 6SCC 675]*** which was dealt with in ***Radhey Shyam*** (supra), the view that the orders and proceedings of the judicial court subordinate to the High Court are amenable to the High Court under



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Article 226 of the Constitution of India was over-ruled and there was no specific finding that the orders of the Criminal Courts could be challenged under Article 226 of the Constitution of India. Secondly, under Section 397 r/w. 401 Cr.P.C., the correctness, legality or propriety of any sentence or order of an inferior Criminal Court could be challenged by way of a Revision Petition.

4.If the petitioner's submissions are to be given any consideration, it would tantamount to hold that all the Judgments, sentences and orders passed by the Criminal Courts subordinate to the High Court could be challenged by invoking Article 226 of the Constitution of India, which is impermissible. In view of the specific provision for filing a Revision challenging the order passed by the Special Court under the TANPID Act, the present Writ Petition is not maintainable and accordingly, the same stands dismissed with liberty to the petitioner to file a Revision Petition against the impugned order.

5.Further, we have also taken note of the fact that after the order dated 22.12.2023, which was made ready on 09.01.2024, the petitioner had



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filed the present Writ Petition on 02.02.2024 itself, which is within the limitation prescribed for preferring a Revision Petition under Section 379 Cr.P.C. As such, the petitioner is granted liberty to prefer such a Revision Petition within a period of 30 days from today, if he chooses to do so. In case such a Revision is filed within the time prescribed by this Court, the Registry shall take the same on file, if it is otherwise in order, without reference to the general limitation period prescribed for preferring a Revision under Section 397 r/w. 401 Cr.P.C. The Registry shall also return the original impugned order dated 22.12.2023 to the duly authorised representative of the petitioner (party-in-person). No costs. Consequently, the connected miscellaneous petitions are closed.

[M.S.R., J]

[S.M., J]

22.07.2024

Index: Yes/No

Speaking/Non-speaking order

Tsg

Note: Issue order copy on 24.07.2024

To

1.The Deputy Superintendent of Police,
Economic Offences Wing – II,
Guindy, Chennai – 32.



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2.The Superintendent of Central Prison-1,
Puzhal, Chennai – 600 066.

3.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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