



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P No.5419 of 2024
and W.M.P No.5981 of 2024

Mr.Mohammed Fais

...Petitioner

Vs.

The Sub Divisional Magistrate and
Revenue Divisional Officer,
Gudalur, The Nilgris.

...Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Declaration, declaring impugned Bond in Document No.59AA 339386 dated 23.12.2023 executed before the Respondent by the Petitioner as illegal and abuse of process of law and in violation to Article 21 of the Constitution of India.

For Petitioner : Mr.I.Abdul Basith
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This writ petition has been filed challenging the bond that was taken from the petitioner on the ground that the bond was secured even without following the procedure under Section 111 of Cr.P.C.



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2. The respondent has filed a counter and the relevant portions are extracted hereunder:

2. I humbly submit that the Sub Inspector of Police, Gudalur Police Station has submitted a requisition to the respondent on 19.6.2023 stating that while he is on rounds on 19.6.2023 at nearby the sungam in Gudalur, the Petitioner was standing alone, suspecting the petitioner, the Sub Inspector of Police has arrested him and filed a case in C. No.91/2023 of the Gudalur Police Station u/s 110 (e) of Code of Criminal Procedure 1973 and requested to take action u/s 110 of Cr.P.C 1973 and bind over him in order to prevent him from any criminal activities as deem fit. In this connection, the requisition and previous FIR copies placed before me have been verified carefully. As per Crime No. 605/2020 of Gudalur Police Station, a case u/s 294(b), 323, 324, 506(2) of IPC 1860 was filed against the Petitioner along with 3 others. The Petitioner name is found in the Rowdy list vide H.S.No.06/2023 in the Gudalur Police Station. The police is suspecting the petitioner that he is in view to commit cognizance offences. Hence, the Sub Inspector of Police, Gudalur Police Station has filed a case u/s 110 of Cr.P.C. 1973 and submitted the requisition to bind over the petitioner with or without sureties as deem fit by the respondent.



3. *It is humbly submitted that, accordingly a summon has been issued to the Petitioner to appear before the respondent on 23.12.2023 and show cause also issued to explain in person why he should not bind over with or without sureties for the period of one year for his good behavior u/s 111 of Cr.P.C. 1973 vide the respondent's letter No. RDOGUD/96/2023-A3(M.C.No.219/2023) Dated 19.12.2023 and the same was served to the Petitioner on the same day through the Police. The Petitioner and Police also appeared before the respondent on 23.12.2023 and the petitioner has explained himself why he should not bind over. The explanation given by the petitioner was not satisfied by the respondent and the respondent has satisfied that the petitioner is suspicious character to commit cognizable offence, if he is allowed to be left large without any proper surety and security. Accordingly a bond for good behavior u/s 110 of Cr.P.C 1973 for Rs.5,000/- (Rupees Five thousand only) with surety has been executed against the petitioner for the period of 3 months or until the completion of enquiry on the vague allegation of quarrelling and fighting vide bond No. 59A 339387 dated 23.12.2023. Aggrieved by this, the Petitioner has filed this writ petition.*

3. It is clear from the above that the petitioner appeared on 23.12.2023 and the bond is said to have been executed on the same day. On carefully going through the counter affidavit, it is seen that the summons that is said to have



been issued to the petitioner is dated 19.12.2023 and on 23.12.2023, the enquiry was conducted and on the same day the bond was executed by the petitioner. On carefully going through the bond, it is seen that the stamp paper is dated 26.12.2023. If the bond had been executed on 23.12.2023, it is not known as to how this could have been executed in a stamp paper dated 26.12.2023. That itself shows that all is not well and there has been violation of procedure.

4.In the light of the above discussion, the bond that is said to have been secured from the petitioner is hereby set aside. There shall be a direction to the respondent police to strictly follow the procedure under Section 111 of Cr.P.C., and proceed further in accordance with law.

5.This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

Index: Yes/No
Speaking order/Non-speaking Order
Neutral Citation: Yes/No
ssr



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1. The Sub Divisional Magistrate and
Revenue Divisional Officer,
Gudalur, The Nilgris.
2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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