

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM

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

Crl.R.C.No.622 of 2020

Panneerselvam

... Petitioner

Vs.

1.The Sub Divisional Executive Magistrate cum
Sub Collector
Chidambaram,
Cuddalore District.

2.The State Represented by
The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District.

...Respondents

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code 1973, to set aside the order passed in MC/193/2020 dated 08.07.2020 by the Sub Divisional Executive Magistrate cum Sub Collector, Chidambaram, Cuddalore District.

For Petitioner : Mr.G. Pugazhenth

For Respondents : Mr.S.Rajakumar
Additional Public Prosecutor
Assisted by Ms.A. Shahana Fathima
Government Advocate (Criminal Side)

ORDER

Challenging the orders dated 08.07.2020 passed in MC/193/2020 by the Sub Divisional Executive Magistrate cum Sub Collector, Chidambaram, Cuddalore 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. on 27.02.2020 and directed him to execute a bond for a sum of Rs.10,000/- for maintaining good behaviour with two sureties for a sum of Rs.20,000/- each, for a period of one year under Section 117 Cr.P.C. Subsequently, on 05.06.2020, two cases were registered against the present revision petitioner, viz., Crime No.340 of 2020 for the offences punishable under Sections 294(b), 341, 324, 506(ii) IPC and 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998 Act and 7 and 8 of POCSO Act and Crime No.341/2020 for the offences punishable under Section 294(b) and 506(i) IPC of Kattumannarkoil

Police Station. Since the revision petitioner violated the said proceedings issued u/s.110 Cr.P.C. the Sub Divisional Executive Magistrate cum Sub Collector, Chidambaram, Cuddalore 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 88 (e) of the said order dated 13.03.2023, it has been held as follows:-

"88 (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 case is allowed. The orders dated 08.07.2020 in M.C. No.193/2020 on the file of the Sub Divisional Executive Magistrate cum Sub Collector, Chidambaram, Cuddalore District, is set aside.

04.04.2024

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

To

- 1.The Sub Divisional Executive Magistrate cum
Sub Collector
Chidambaram,
Cuddalore District.
- 2.The State Represented by
The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District.

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R. HEMALATHA, J.

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