



Crl.R.C.No.784 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM

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

Crl.R.C.No.784 of 2020

Guruprasad

... Petitioner

vs.

1.The Sub Divisional Magistrate (Administration) cum
Revenue Divisional Officer,
Hosur.

2.The Inspector of Police,
Hosur Police Station,
Hosur.

... Respondents

Prayer: Criminal Revision Petition is filed under Sections 397 and 401 of the Criminal Procedure Code 1973, praying to call for the records and set aside the orders passed by the Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur, in Sl. No. 69/2020/B1, 27.07.2020.

For Petitioner : Mr.K.Kannan

For Respondents : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER



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Challenging the order dated 27.07.2020 in Sl.No.69/2020/B1 passed by the Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur, present revision petition is filed.

2. The learned counsel for the revision petitioner would submit that the first respondent had initiated proceedings against the revision petitioner under Section 110 of Criminal Procedure Code and directed him to execute a bond under Section 117 of Criminal Procedure Code for good behaviour on 23.12.2019 for a sum of Rs.50,000/- for a period of one year. Subsequently, on 27.06.2020, a case was registered against the present revision petitioner in Crime No.738/2020 by the Hosur Police Station, Hosur, Krishnagiri District for the offences punishable under Sections 294 (b), 324 and 506(ii) of IPC. Since the revision petitioner violated the condition of the bond which he executed under Section 117 of Criminal Procedure Code, the Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur initiated proceedings under Section 122 of Criminal Procedure Code and



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remanded the revision 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:-

"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



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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 under Section 122 of Criminal Procedure Code. Therefore, the impugned order passed by the first respondent is liable to be set aside.

4. With the above observations, the present Criminal Revision Petition is allowed. The order dated 27.07.2020 in Sl.No.69/2020/B1 on the file of the Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur, is set aside.

02.04.2024

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

To

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Revenue Divisional Officer,

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2.The Inspector of Police,
Hosur Police Station,
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R. HEMALATHA, J.
dm

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