



Crl.R.C.No.758 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

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

Crl.R.C.No.758 of 2020

Ajai @ Sivaprakasam

... Petitioner

Vs.

1.The Sub Divisional Magistrate and
Revenue Divisional Officer
Chengalpattu,
Chengalpattu District.

2.The State Represented by
The Inspector of Police,
Chengalpattu Town Police Station,
Kancheepuram District.

...Respondents

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, to set aside the order passed in MC No.A1/28/2020 dated 10.06.2020 by the first respondent.

For Petitioner : Mr.G. Magesh Kumar

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



Cr.L.R.C.No.758 of 2020

WEB COPY

ORDER

Challenging the orders dated 10.06.2020 passed in MC No.A1/28/2020 by the Sub Divisional Magistrate and Revenue Divisional Officer, Chengalpattu 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. and directed him to execute a bond under Section 117 Cr.P.C. for good behaviour on 21.01.2020 for a sum of Rs.50,000/- for a period of one year . Subsequently, on 25.05.2020, a case was registered against the present revision petitioner in F.I.R. No.1866/2020 for the offences punishable under Sections 147, 148, 341, 294(b), 302 and 506(ii) IPC of Chengalpattu Town Police Station, Kancheepuram District. Since the revision petitioner violated the said proceedings issued u/s.110 Cr.P.C., the Sub Divisional Magistrate and Revenue Divisional Officer, Chengalpattu 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.



Crl.R.C.No.758 of 2020

WEB COPY

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.



CrI.R.C.No.758 of 2020

WEB COPY

4. With the above observations, the present Criminal Revision case is allowed. The orders dated 10.06.2020 in M.C. No.A1/28/2020 on the file of the Sub Divisional Magistrate and Revenue Divisional Officer, Chengalpattu District, is set aside.

04.04.2024

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

To

- 1.The Sub Divisional Magistrate and
Revenue Divisional Officer
Chengalpattu,
Chengalpattu District.
- 2.The State Represented by
The Inspector of Police,
Chengalpattu Town Police Station,
Kancheepuram District.



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R. HEMALATHA, J.
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