



Crl.R.C.No.817 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

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

Crl.R.C.No.817 of 2020

Sibi @ Sibi Anand

... Petitioner

Vs.

1.The Sub Divisional Executive,
Magistrate & Sub Collector,
Virudhachalam.

2.The Inspector of Police,
Omangalam,
Cuddalore District.

...Respondents

Prayer : Criminal Revision filed under Sections 397 and 401 of Criminal Procedure Code 1973, to call for the records pertaining to the order passed by the 1st respondent in M.C/112/2020 dated 26.08.2020 and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.R.Marudhachalamurthy

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



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ORDER

Challenging the orders dated 26.08.2020 passed in M.C/112/2020 by the Sub Divisional Executive, Magistrate and Sub Collector, Virudhachalam, the present revision 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 Cr.P.C., on 28.02.2020 and directed him to execute a bond for a sum of Rs.1,00,000/- for maintaining good behaviour with two sureties, for a period of one year under Section 117 Cr.P.C. Subsequently, on 26.07.2020, a case was registered against the present revision petitioner, viz., Crime No.745 of 2020 for the offences punishable under Sections 294(b), 336, 324, 323, 506(ii) IPC and 324, 352, 336, 506 (ii) and 307 IPC on the file of Oomangalam Police Station, Cuddalore District. Since the revision petitioner violated the said proceedings issued under Section 110 Cr.P.C., the Sub Divisional Executive, Magistrate and Sub Collector, Virudhachalam, initiated



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proceedings under Section 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



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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(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 26.08.2020 in M.C./112/2020 on the file of the Sub Divisional Executive, Magistrate and Sub Collector, Virudhachalam, is set aside. No costs.

05.04.2024

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



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- To
- 1.The Sub Divisional Executive,
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R. HEMALATHA, J.
dm

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