



CrI.R.C.No.900 of 2020
and CrI.M.P.No.6353 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

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

CrI.R.C.No.900 of 2020
and CrI.M.P.No.6353 of 2020

Sathiya @ Sakthivel

... Petitioner

Vs.

1.The Sub-Divisional Executive -
Magistrate cum Revenue Divisional Officer
Virudhachalam Sub Division,
Cuddalore District.

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

... Respondents

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal
Procedure Code 1973 set aside the order made in M.C.No.84/2020 vide
an order dated 17.09.2020 on the file of the first respondent.

For Petitioner : Mr.M.Velmurugan

For Respondents : Mr.S.Rajakumar

Additional Public Prosecutor



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ORDER

Challenging the orders dated 17.09.2020 in M.C. No.84/2020 passed by the Sub-Divisional Executive Magistrate cum Revenue Divisional Officer, Virudhachalam Sub Division, 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. and directed him to execute a bond under Section 117 Cr.P.C. for good behaviour on 03.03.2020 for a sum of Rs.1,00,000/- for a period of one year. Subsequently, on 03.09.2020, a case was registered against the present revision petitioner in Crime No.690/2020 of Mandharakuppam Police Station for the offences punishable u/s.294(b), 353, 332, 420, 465, 467, 506(ii) IPC. Since the revision petitioner violated the condition of the bond which he executed u/s.117 Cr.P.C, the Sub-Divisional Executive Magistrate cum Revenue Divisional Officer, Virudhachalam Sub Division, Cuddalore District initiated proceedings



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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 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 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 is allowed. Consequently, connected Criminal Miscellaneous Petition is closed. The orders dated 17.09.2020 in M.C. No.84/2020 on the file of the Sub-Divisional Executive Magistrate cum Revenue Divisional Officer, Virudhachalam Sub Division, Cuddalore District, is set aside.

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

1.The Sub-Divisional Executive -
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2.The State Represented by
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R. HEMALATHA, J.
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