



CrI.R.C.No.883 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

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

CrI.R.C.No.883 of 2020

Naga @ Nagaraj

... Petitioner

Vs.

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

2.The Inspector of Police,
Hudco Police Station,
Krishnagiri.

...Respondents

Prayer : Criminal Revision filed under Sections 397 and 401 of Criminal
Procedure Code 1973, to call for the records and set aside the order
passed by the Sub Divisional Magistrate (Administration) cum Revenue
Divisional Officer, Hosur in Sl.No.83/2020/B1, dated 24.09.2020.

For Petitioner : Mr.K.Kannan

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 24.09.2020 passed in Sl.No.83/2020/B1 by the Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur, 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 14.08.2020 and directed him to execute a bond for a sum of Rs.50,000/- for maintaining good behaviour for a period of one year under Section 117 Cr.P.C. Subsequently, on 20.09.2020, a case was registered against the present revision petitioner, viz., Crime No.1203 of 2020 for the offences punishable under Sections 427, 324, 506(ii) IPC on the file of Hudco Police Station, Krishnagiri District. Since the revision petitioner violated the said proceedings issued under Section 110 Cr.P.C., Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur, initiated proceedings under Section 122 Cr.P.C. and remanded the petitioner to undergo



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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 24.09.2020 in Sl.No.83/2020/B1 on the file of the Sub Divisional Magistrate (Administration) cum Revenue Divisional Officer, Hosur, is set aside. No costs.

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



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- To
- 1.The Sub Divisional Magistrate (Administration) cum
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 - 2.The Inspector of Police,
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R. HEMALATHA, J.
dm

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