



CrI.R.C.No.1063 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

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

CrI.R.C.No.1063 of 2020

Lenin

... Petitioner

Vs.

1.The Sub Divisional Magistrate and  
Revenue Divisional Officer,  
Sriperumbudur, Kanchipuram District.

2.The State Represented by its  
Inspector of Police,  
C-4, Somangalam Police Station,  
Kanchipuram District.  
(Crime No.680 of 2020)

... Respondents

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal  
Procedure Code 1973, set aside the order made in  $\mu$ . $\mu$ .637/2020/ $\mu$ 1  
vide an order dated 11.09.2020 on the file of the first respondent.

For Petitioner : Mr.M.Ravikumar

For Respondents : Mr.S.Rajakumar

Additional Public Prosecutor



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**ORDER**

Challenging the orders dated 11.09.2020 in ஸ்.ஸ்.637/2020/அ1 passed by the Sub Divisional Magistrate and Revenue Divisional Officer, Sriperumbudur, Kanchipuram 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. on 13.03.2020 and directed him to be at good behaviour for a period of one year. Subsequently, on 02.06.2020, a case was registered against the present revision petitioner in Crime No.984/2020 of C-4, Somangalam Police Station for the offences punishable u/s.147, 148, 294(b), 323, 324, 506(2), 307 IPC. Since the revision petitioner violated the said proceedings issued u/s.110 Cr.P.C. the Sub Divisional Magistrate and Revenue Divisional Officer, Sriperumbudur, Kanchipuram 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.



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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 122(1)(b)Cr.P.C?"*



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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. The orders dated 11.09.2020 in M.C. No.55/2023 in மு.மு.637/2020/அ1 on the file of the Sub Divisional Magistrate and Revenue Divisional Officer, Sriperumbudur, Kanchipuram District, is set aside.

**01.04.2024**

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



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To

1.The Sub Divisional Magistrate and  
Revenue Divisional Officer,  
Sriperumbudur, Kanchipuram District.

2.The State Represented by its  
Inspector of Police,  
C-4, Somangalam Police Station,  
Kanchipuram District.



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**R. HEMALATHA, J.**  
mtl

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