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CrI.R.C.No.2037 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.2037 of 2023
and CrI.MP.No.18841 of 2023

Saravanan

... Petitioner

Vs.

1.State rep. By
The Executive Magistrate cum Sub-Collector
O/o.Collectorate Office,
Thiruvallur.

2.State rep. by
The Inspector of Police,
Manavalanagar Police Station,
Thiruvallur District.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed by the first respondent in Na.Ka.No.5249/2022/A7 in M.C.No.243/2022 dated 06.01.2023.

For Petitioner : Mr.M.Anand

For Respondent : Mr.R.Kishore Kumar
Government Advocate (CrI. Side)



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ORDER

Challenging the order passed by the first respondent under Section 122(1)(b) Cr.P.C. in Na.Ka.No.5249/2022/A7 in M.C.No.243/2022 dated 06.01.2023, the present revision petition is filed.

2.The grounds assailed by the petitioner is that the order passed by the first respondent is erroneous, not maintainable in law and against the settled position of law. The learned counsel for the petitioner relied upon the law laid down by the Apex Court in the case of ***Gulam Abbas vs. state of Uttar Pradesh*** reported in ***[1982] 1 SCC 71*** and he also placed reliance on the decision of this Court in the case of ***Devi vs. Executive Magistrate*** reported in ***[2020] 6 CTC 157***. The learned counsel further referred to the order of the Division Bench of this Court in the case of ***P.Sathish @ Sathish Kumar vs. The Inspector of Police, Law and Order, H-4 Korukkupet Police Station, Chennai and another in Crl.RC.No.137 of 2018 batch dated 13.03.2023*** and submitted that the Executive Magistrate cannot authorize imprisonment under Section 122(1)(b) Cr.P.c. for violation



of a bond under Section 107 Cr.P.C. and a person who has violated the bond executed before the Executive Magistrate under the said provision will have to be challaned or prosecuted before the Judicial Magistrate for inquiry and punishment under Section 122(1)(b) Cr.P.C. Following the order of the Division Bench, the learned Single Judge of this Court has set aside the proceedings of the Executive Magistrate in ***Crl.RC.No.268 of 2023 dated 20.06.2023 [Kozhi Raja @ Raja vs. The Executive Magistrate and Deputy Commissioner of Police, North, Coimbatore City, Coimbatore]***. Hence, he prayed for setting aside the order passed by the Executive Magistrate.

3.The Government Advocate (Crl. Side) appearing for the respondents submitted that the during the night hours on 1/13.11.2022, the second respondent police was on patrol duty and keeping a watch over Kabilan Nagar, at that time, the petitioner on seeing them attempted to run away from the place. Thereafter, he was caught and enquired, at that time, he gave a contradictory versiion. Thereafter, the petitioner disclosed that he is involved in Crime Nos.525/2011, 545/2017, 471/2018, 182/2010, 337/2021, 450/2021 and 98/2022. Hence, he was produced before the first



respondent, who initiated proceedings in M.C.No.243/2022 and obtained a bond. On 17.12.2022 at about 3.00 p.m., the petitioner attempted to murder his sister's son Ajith Kumar with regard to a property dispute and assaulted him on his head who administered sutures. Thereafter, a case in Crime No.318/2022 for the offence under Sections 294(b), 324, 307 and 506(ii) IPC. The petitioner was arrested on 18.12.2022, proceedings under Section 122(1)(b) Cr.P.C., enquiry conducted and finding that the petitioner had violated the conditions, the impugned order was passed by the first respondent under Section 122(1)(b) Cr.P.C. keeping the petitioner under confinement till 03.11.2023.

4.He further submitted that Special Leave Petition was filed before the Hon'ble Supreme Court against the order of the Division Bench in Crl.RC.No.137 of 2018 batch in Crl.A.No.682 of 2024 [SLP(Crl.) No.012075/2023]. The SLP was admitted and notice ordered, but no stay granted.



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5.Considering the submissions made and on perusal of the materials available on record, it is seen that by impugned order the petitioner was directed to be in confinement till 03.11.2023. Now the period of confinement completed. Hence, nothing survives in this petition. No further order is required.

6.In view of the above, this Criminal Revision Case stands disposed of. Consequently, connected miscellaneous petition is closed.

01.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

cse

To

1.The Executive Magistrate cum Sub-Collector
O/o.Collectorate Office,
Thiruvallur.

2.The Inspector of Police,
Manavalanagar Police Station,
Thiruvallur District.



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M.NIRMAL KUMAR, J.

cse

3.The Public Prosecutor,
High Court, Madras.

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