



Crl.R.C.No.1692 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1692 of 2023

and

Crl.MP.No.16175 of 2023

Karuppusamy @ Kavın

... Petitioner

Vs.

1.The Taluk Administrative Magistrate cum
Tahsildar,
Mettupalayam Taluk,
Coimbatore District.

2.State rep. by
The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order in Na.Ka.No.4758/2023/A7 vide an order dated 15.09.2023 on the file of the first respondent.



Crl.R.C.No.1692 of 2023

For Petitioner : Mr.S.N.Arunkumar

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

ORDER

Challenging the order passed by the first respondent under Section 122(1)(b) Cr.P.C. in Na.Ka.No.4758/2023/A7 dated 15.09.2023, 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***



Crl.R.C.No.1692 of 2023

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 respondent submitted that the petitioner is a habitual offender who was causing disturbance to the public and also to the traffic. Hence, proceedings has been initiated under Section 110 Cr.P.C., he was produced before the first respondent on the same day and the first respondent obtained a bond from the petitioner for good behaviour for one year. Thereafter, on 26.08.2023



Crl.R.C.No.1692 of 2023

one Kanthavel lodged a complaint before the second respondent police stating that due to previous enmity, the petitioner along with other accused persons assaulted him with deadly weapons with an intention to commit murder. Based on the above complaint, a case in Crime No.598/2023 for the offence under Sections 147, 341, 342, 294(b), 307, 120B IPC. Thereafter, enquiry conducted, the petitioner and other accused persons were arrested and he was produced before the first respondent. Since the petitioner has violated the condition, enquiry conducted by the second respondent and an order was passed by the first respondent under Section 122(1)(b) Cr.P.C. keeping the petitioner under confinement till 08.02.2024.

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.



Crl.R.C.No.1692 of 2023

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 08.02.2024. 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 Taluk Administrative Magistrate cum
Tahsildar,
Mettupalayam Taluk,
Coimbatore District.

2.The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.



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CrI.R.C.No.1692 of 2023

M.NIRMAL KUMAR, J.

cse

3.The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.1692 of 2023

01.03.2024