



Crl.R.C.No.1923 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.1923 of 2023

and

Crl.MP.No.18024 of 2023

Mahaveer

... Petitioner

Vs.

1.The Revenue Divisional Officer cum
Administrative Magistrate,
Madhuranthagam,
Chengalpet District.

2.State rep. by
The Inspector of Police,
G-5 Chunambedu Police Station,
Chengalpattu District.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order in M.C.No.156 of 2022 in Na.Ka.No.5058/2023/Aa vide order dated 13.10.2023 on the file of the first respondent.



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Crl.R.C.No.1923 of 2023

For Petitioner : Mr.R.Rajadurai

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 M.C.No.156 of 2022 in Na.Ka.No.5058/2023/Aa dated 13.10.2023, 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 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 07.07.2023 one Jayapriya lodged a complaint stating that she is working as Manager at Vellore Village Post Office in Cheyyur Taluk, Chengalpattu District and since she went to Head Office for training, she deployed one Jaganathan as temporary employee. After finishing his work, the said Jaganathan left the closing balance of Rs.24,588/- in office, the next day one Sriram who is near the Post Office called the complainant and informed that the doors of post office broke opened. Immediately, she went to the Post Office and found the cash box missing. Based on the above complaint, a case in Crime No.312/2023 for the offence under Sections 457 and 380 IPC. Thereafter, enquiry conducted, the petitioner was 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 18.12.2023.

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.R.C.No.1923 of 2023

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.

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 18.12.2023. 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

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CrI.R.C.No.1923 of 2023

M.NIRMAL KUMAR, J.

cse

To

- 1.The Revenue Divisional Officer cum
Administrative Magistrate,
Madhuranthagam,
Chengalpet District.
- 2.The Inspector of Police,
G-5 Chunambedu Police Station,
Chengalpattu District.
- 3.The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.1923 of 2023

01.03.2024