

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.15582 of 2015

and

M.P.No.1 of 2015

1.P.Manokaran
2.P.Arjunan
3.P.Rathinasamy ... Petitioners

Vs

1.Revenue Divisional Officer,
Dharapuram,
Tiruppur District.

2.The Inspector of Police,
Dharapuram Police Station,
Dharapuram Taluk.

3.Chinnammal

4.Karthick

5.Kalidass

6.Saraswathi ... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the proceedings under Section 111 of Cr.P.C. in M.C.1/2015/E dated 30.01.2015 on the file of the 1st respondent.

For Petitioners : Mr.N.Ponraj

For Respondents : Mr.C.Emalias,

Additional Public Prosecutor for R1 & R2

ORDER

This Criminal Original Petition is filed to quash the proceedings in M.C.1/2015/E dated 30.01.2015 passed by the 1st respondent under Section 111 of Cr.P.C.

2. It is seen that the 1st respondent has passed an order dated 30.01.2015 under Section 111 Cr.P.C. calling upon the petitioners to give a bond for a sum of Rs.1,000/-. Aggrieved by the said order, the petitioners, who were arrayed as "B" Party, have approached this Court.

3. The learned counsel appearing for the petitioners relied upon the judgment of this Court in Athianna Gounder and others Vs. Nachiappan and others reported in 1982-LW (Cr1)61, wherein it is stated as follows:

"The impugned order of the Magistrate is passed under S. 111 Cr.P.C., wherein he has directed both A and B parties to execute a bond for a sum of Rs.1,000/- for keeping-peace for one year and bound themselves not to commit any breach of peace or to do any action that may cause breach of peace during the said period. The order passed under S. 111, Cr.P.C. suffers serious defect which would vitiate the order itself, i.e., the Magistrate has passed an order against both A and B parties. In this case, the Magistrate has clubbed both the A and B parties together. In CrI.M.P.No.181 of 1977 Natarajan, J., by the order, dt. 17th June, 1977 has elaborately considered this aspect, and has referred to a number of decisions which laid down that two opposing parties to a proceeding under Section 107, CrI.P.C. cannot be proceeded against and bound over in one and the same proceedings. Following this decision, Paul, J., in CrI.M.P.No.1275 of 1978, dt.30th March, 1980 has observed, that the Magistrate has no jurisdiction to pass an order clubbing both A and B parties. I am in respectful agreement with the views expressed by Natarajan, J. and Paul, J. in the aforesaid decisions. In view of the fact that the order passed by the Sub Divisional Magistrate, Mettur is a defective order, the impugned order has to be quashed, for, he has impleaded and clubbed both A and B parties. In the circumstances, the order passed in M.C.No.2 of 1981, dt. 23rd February, 1981 by the Sub-Divisional Magistrate, Mettur has to be quashed and is accordingly quashed."

4. In this case also, the 1st respondent has arrayed both the warring groups as "A" party and "B" party and hence, the order is vitiated on that score.

5. Accordingly, the impugned order dated 30.01.2015, passed by the 1st respondent-Revenue Divisional Officer, is hereby quashed and this Criminal Original Petition is allowed and the matter is remanded to the Revenue Divisional Officer for passing orders in accordance with law bearing in mind the judgment of this Court referred to supra. The 1st respondent should issue summons separately to "A" party and "B" party and conduct the proceedings. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.Revenue Divisional Officer,
Dharapuram,
Tiruppur District.

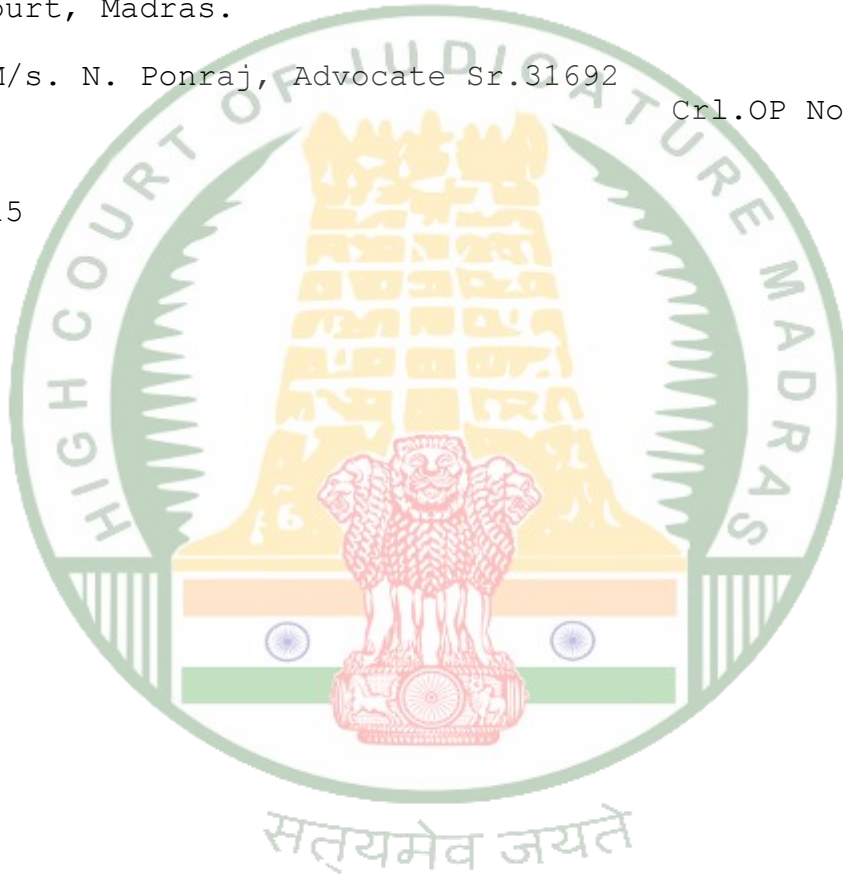
2.The Inspector of Police,
Dharapuram Police Station,
Dharapuram Taluk.

3.The Public Prosecutor,
High Court, Madras.

1 cc to M/s. N. Ponraj, Advocate Sr.31692

Cr1.OP No.15582 of 2015

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