

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.9084 of 2015 and
M.P.No.1 of 2015

Shahabudeen

... Petitioner

Versus

1. The State rep by
The Deputy Commissioner of Police,
Ambattur, Chennai-54.

2. The Inspector of Police,
Law and Order,
T14, Mangadu Police Station,
Chennai-122.

.. Respondents

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to the summons in C.No.344/DC/Amb/Sec.Pro./2014 dated 27.03.2015 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.Mohamed Ehiya

For Respondents: Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This petition is filed to quash the summons issued by the 1st respondent in C.No.344/DC/Amb/Sec.Pro./2014 dated 27.03.2015.

2. Heard Mr.Mohamed Ehiya, learned counsel for the petitioner and Mr.C.Emalias, learned Additional Public Prosecutor appearing for the respondents.

3. It is seen that earlier a proceeding under Section 107 Cr.P.C was initiated by the authorities, challenging the same, the petitioner filed Crl.O.P.No.160 of 2015 and this Court has quashed the proceedings by order dated 08.01.2015, on the short ground that the authority was not competent to initiate the proceedings under Section 107 Cr.P.C. Now, Section 107 Cr.P.C was again initiated by the Deputy Commissioner of Police, who is empowered by the Government to act as an Executive Magistrate in the City of Madras.

4. The learned counsel for the petitioner submits that the order is illegal, in as much as a civil suit is pending, whereby an injunction has been granted in favour of the petitioner herein. This Court perused the injunction order granted by the Civil Court and found that the Civil Court has granted injunction in I.A.No.321 of 2014 restraining the opposite parties from disturbing with the affairs of the Mosque that is run by the petitioner.

5. The scope of enquiry under Section 107 Cr.P.C is little different, from the issue pending before the Civil Court. As regards Section 107 Cr.P.C is concerned, the proceedings are initiated in order to prevent breach of peace. The parties will be required to appear before the Executive Magistrate and execute a bond that they maintain peace. Sufficient materials have been placed before the Executive Magistrate that there is a likelihood of breach of peace, on account of the dispute between the two groups, who want to take control of the management of the mosque.

6. The learned Additional Public Prosecutor submits that the petitioner was directed to appear on 09.04.2015, but he did not appear on that day.

7. Therefore, this Court does not find any merits to quash the summons and directs the petitioner to appear on 22.04.2015 before the Executive Magistrate and take part in the proceedings on receipt of a copy of this order.

8. With the above observation, this petition is closed. Consequently, connected miscellaneous petition is closed.
vsm/gya

-s/d-

Assistant Registrar()

True Copy

Sub-Assistant Registrar

To

1. The Deputy Commissioner of Police,
Ambattur, Chennai-54.

2. The Inspector of Police,
Law and Order,
T14, Mangadu Police Station, Chennai-122.

3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.Mohammed Ehiya Advocate SR 20038

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prk17/4

CRL.O.P.No.9084 of 2015