



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2015

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

CRL.O.P(MD)No.11353 of 2015

and

M.P(MD)No.1 of 2015

1.Marimuthu
2.Saravanan
3.Hari
4.Sankar
5.Jeyasankar
6.Balamurugan
7.Ponnambalam
8.Kathiresan
9.Sethuraman

...Petitioners/'A'Party

.vs.

1.The Sub-Divisional Magistrate and Revenue
Divisional Officer,
Aruppukkottai,
Virudhunagar District.

2.The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District
(Crime No.100 of 2014)

...Respondents 1 and 2/Respondents 1 and 2

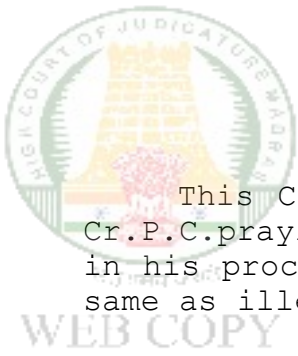
3.Ravi
4.Muthupandi
5.Duraipandi
6.Ravichandran
7.Kesavan
8.Ramanathan
9.Balamurugan
10.Kaliraj
11.Marimuthu
12.Muniyandi @ Muneeswaran
13.Pandi

...Respondents 3 to 13/ 'B'party

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code praying this Court to call for the records of the first respondent in his proceedings in M.C.No.A2/4254/2014, dated 13.03.2015 and quash the same as illegal, arbitrary and in violation of principles of law.

For Petitioners : M/s.G.Marimuthu

For Respondents : Mr.A.P.Balasubramani
1 and 2 Govt.Advocate(Crl.side)For Respondents : M/s.K.Ashok Kumar
3 to 13



ORDER

This Criminal Original Petition has been filed under Section 482 of Cr.P.C. praying this Court to call for the records of the first respondent in his proceedings in M.C.No.A2/4254/2014, dated 13.03.2015 and quash the same as illegal, arbitrary and in violation of principles of law.

2. Heard the learned counsel for the Petitioners and the learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2/State and the learned counsel appearing on behalf of respondents 3 to 13 and perused the records.

3. The Petitioners have come forward with this Petition for quashing the impugned order passed by the first respondent directing the 'A' party and 'B' party to appear before him on 13.03.2015 to execute a bond for one year to keep peace in their village and challenging the said order, the present petition is filed.

4. The learned counsel for the Petitioners would submit that while initiating proceedings under Section 107 of Cr.P.C, though the Executive Magistrate must give substance of information received and also he shall not order for joint enquiry of both the groups. But here both parties are directed to appear jointly on 13.03.2015 which is against the principles of natural justice. He relied on a decision reported in 2006(3) CTC 792 (*Palani and others .vs. The Inspector of Police, Pudukkottai Police Station, Pudukkottai, Thoothukudi District and others*), which was followed by this Court and also the judgement of this Court reported in 2011(2) MWN(Cr) 394 (*G.Paramasivam and others .vs. The Sub-Divisional Magistrate/Revenue Divisional Officer, Madurai and another*) and pray for setting aside the proceedings of the first respondent.

5. The learned Government Advocate (Crl.Side), on instructions, would submit that substance of information has been given in this impugned order. But he fairly concede that both 'A' party and 'B' Party, who are rival parties, are directed to appear before him on same day on 13.03.2015 at 11.00 a.m to execute the bond.

6. The learned counsel for the respondents 3 to 13 has no objection for quashing the impugned proceedings.

7. Considering the rival submissions and also the decisions relied on by the learned counsel for the Petitioners that the first respondent initiated 107 proceedings stating that during the performance of Pongal festival on 05.05.2012, there was a fight between two groups and hence a case in Crime No.82 of 2014 has been registered on the basis of the complaint given by 'A' party and also a case in Crime No.83 of 2014 has been registered on the basis of the complaint given by the 'B' party. Therefore the substance of information has been given and the only point is that both 'A' party and 'B' party are directed to appear before him jointly on the same day at the same time, which will cause disturbance of peace in the village.



8. In the decision reported in 2006(3) CTC 792(cited Supra), this Court has held as under:

''3.....It has been further held in *Thenmalaiyandi .vs. State*, 1983 LW(Crl) 313, wherein it has been held as follows:

"The first is that the learned Magistrate has passed a common order against the members of the two parties and called upon them to face a joint enquiry. This clearly not in accordance with law. It has to be pointed out that under sub-section(5) of Section 116, Crl.P.C., a joint enquiry can be held only in respect of members or association of the same group; but not against the member of two rival groups."

Considering the ratio laid down in the decisions cited above, I am of the view that the impugned order is liable to be quashed.

9. In the result, the Criminal Original Petition is allowed and the proceedings of the first respondent in M.C.No.A2/4254/2014, dated 13.03.2015 stands quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Divisional Magistrate and Revenue
Divisional Officer,
Aruppukkottai,
Virudhunagar District.
2. The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Marimuthu, Advocate SR.No.51677

CRL.O.P (MD) No.11353 of 2015
and
M.P (MD) No.1 of 2015
03.09.2015

vsn

NS/SKS-RR/14.09.2015 : 3P/5C