



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Crl.O.P(MD)No.12826 of 2015

and

M.P. (MD) .Nos.1 and 2 of 2015

Mookaiah @ Karthik

... Petitioner

Vs.

1.The Sub Inspector of Police,
Karuppayoorani Police Station,
Madurai District.

2.The Revenue Divisonal Officer-cum-
Sub Divisional Magistrate,
Madurai.

... Respondents

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings initiated under Section 107 Cr.P.C in M.C.No.5194/2015/M dated 26.06.2015 on the file of the second respondent and quash the same as illegal.

For Petitioner : Mr.R.Gandhi

For Respondents : Mr.K.Anbarasan

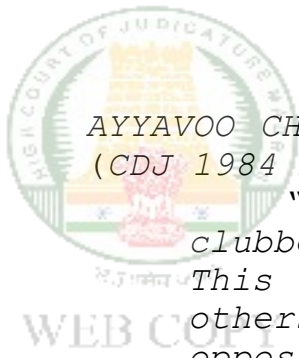
Govt. Advocate (Crl.Side)

ORDER

The petitioner has come forward with this petition to quash the proceedings initiated under Section 107 Cr.P.C in M.C.No.5194/2015/M dated 26.06.2015 on the file of the second respondent.

2.Heard the learned counsel for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondents.

3.The learned counsel for the petitioner submitted that while initiating the proceedings under Section 107 of Cr.P.C., the second respondent directed the both 'A' party and 'B' party to appear before on 07.07.2015 at 04.00 p.m., which is against law. The learned counsel relied upon the decision in *PALANI AND OTHERS* vs. *THE INSPECTOR OF POLICE, PUDHUKOTTAI POLICE STATION, PUDHUKOTTAI, THOOTHUKUDI DISTRICT AND OTHERS*, reported in 2006(3) CTC 792 that has been subsequently followed by this Court in



AYYAVOO CHETTAIR & OTHERS V. INSPECTOR OF POLICE, ENNORE & OTHERS (CDJ 1984 MHC 490), wherein it was held as under:

"6. In this proceeding both the A and B parties are clubbed together. They are members of hostile groups. This Court in Sadayan and others v. Paramasivam and others (1983 LW(Crl)218) has taken the view that two opposing parties to a proceeding under Section 107 of the Crl.P.C., cannot be proceeded against and bound over in one and the same proceeding. The same view is expressed in K.P.Murugesan and 96 others v. State by Inspector of Police, Keeranur, Palani Taluk and others (1983 LW(Crl)251). The order is, therefore, clearly vitiated and has to be quashed on this ground also."

4. Heard the learned Government Advocate(Crl.side) appearing for the respondents.

5. I have considered the rival submissions made on either side and also perused the materials available on record.

6. The second respondent has passed the impugned order dated 26.06.2015 stating that on 15.06.2015 there was a previous enmity existing between A and B parties, they have criminally conspired together with an intention to create law and order problem and they are the members of hostile groups and they are belonging to different community, due to which, the first respondent has registered a case in Crime No.146 of 2015 for offence under Section 107 and they will cause public tranquility between them. Hence, the proceedings has been taken under Section 111 of Cr.P.C and the impugned order has been passed on 26.06.2015 directing them to appear before the second respondent on 07.07.2015 at 04.00 p.m. It is an admitted fact that there are four cases pending between both the parties and both are belonging to rival groups and different community and they will cause disturbance in public peace.

7. Applying the ratio laid down in the decisions cited supra to the case on hand, I am of the view that the notice issued by the second respondent is not in accordance with law and it is liable to be quashed. Accordingly, the impugned order dated 26.06.2015 in M.C.No.5194/2015/M passed by the second respondent is hereby quashed and the criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/



To

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

+ 1 CC TO MR.R.GANTHI, ADVOCATE IN SR NO. 50243/15

NS

TE/NGMS-SS/SAR(J) 14/09/2015 3P/5C

Cr1.O.P(MD)No.12826 of 2015
31.08.2015