



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE C.T. SELVAM
CRL.O.P. (MD) No.23212 of 2014

and

MP (MD) 1 & 2 of 2014

1.Thangasamy
2.Rajagopal
3.Thangam @ Thangarasu
4.Vijayan @ Vijayakumar
5.Jeganathan
6.Ramajeyam
7.Narayana Perumal
8.Rajendran
9.Samy Nadar
10.Thanu Lingam
11.Siva Balan
12.Narayana Perumal

.. Petitioners

Vs.

The State rep. by
The Inspector of Police,
Manavalakurichi Police Station,
Kanyakumari District.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the impugned order in A2/M.C43/2014 on the file of the Sub Divisional Magistrate cum Revenue Divisional Officer, Padmanabhapuram, Kanyakumari District dated 22.11.2014 and quash the same.

For Petitioner	:	Mr.R.Russelraj
For Respondent	:	Mr.K.Anbarasan
		Government Advocate (Crl. side)

O R D E R

This petition has been filed challenging the show cause notice under section 207cr.p.c issued by the Sub Divisional Magistrate cum Revenue Divisional Officer, Padmanabhapuram, Kanyakumari District, in proceedings No. A2/M.C43/2014, dated 22.11.2014.

2. The learned counsel for the petitioner submits that the show cause notice refers only to one occurrence on 21.09.2014 and therefore, the same cannot be sustained. It is his further submission that the petitioners are not accused in any case.

3. A reading of the impugned proceedings informs of untoward incidents regards temple observances between two groups over a period of four years. We, therefore, are unable to accept the contention of the learned counsel that the impugned proceedings have been resorted to on a single incident. The present only is a show cause notice and it always will be open to the petitioners to appear before the authority in keeping there with and apprise him of their not being involved in any case whatsoever.



4. Learned counsel relied on the decision of this Court in Crl.O.P.17632 of 2004 dated 28.06.2007. In such case, the Executive Magistrate had specifically informed two incidents. One of such incidents related only to 16 of 28 persons, who were petitioners. The 2nd instance was found to be not an incident at all and only a reference to the presentation of a petition before the authority. We are afraid that the decision relied on cannot be applied to the advantage of the petitioners herein. If we take an example of there having been 100 prior incidents, it would be unnatural to require the Executive Magistrate to inform each incident in the show cause notice. What is required is his subjective satisfaction. Where subjective satisfaction stands arrived at as a result of repeated instances over a period of four years and the final such incident led him to believe it necessary to proceed under Section 107 Cr.P.C., towards the avoiding of breach of peace, the same cannot be found exceptionable.

5. As stated earlier, it would always open to the petitioners to appear before the concerned authority and explain why they should not be required to execute bonds.

6. The petition shall stand dismissed with the above observations. Consequently connected M.P.Nos.1 and 2 of 2014 are closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub- Assistant Registrar

To

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

+1cc to Mr.R.Russel Raj, Advocate in SR.No.13328

sm:01.04.2015:2P/5C

CRL.O.P. (MD) No.23212 of 2014