



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.03.2015
CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

WEB COPY

Cr1.R.C.(MD)No.109 of 2015
and
M.P.(MD)Nos.3 & 4 of 2015

Manoharan .. Petitioner
Vs.

1.The Sub-Divisional Magistrate/
Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Paramakudi Town Police station,
Ramanathapuram District.
(In Crime No.207 of 2014)

.. Respondents

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the impugned order in M.C.No.5 of 2014, dated 31.05.2014 on the file of the respondent No.1 and set aside the same as illegal.

For Petitioner : Mr.K.Seemaraj

For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor

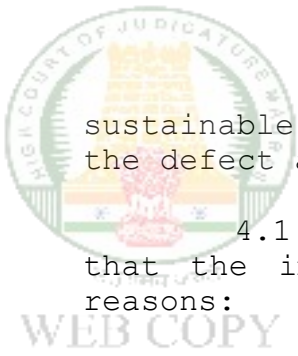
ORDER

The grievance expressed by the petitioner is that the first respondent without adherence to Section 107(1) Cr.P.C., has straightaway passed the impugned order calling upon him to execute a bond for keeping good behavior and aggrieved by the same, he has filed this revision.

2. The learned counsel appearing for the revision petitioner has drawn the attention of this Court to the impugned order of the first respondent and would contend that as per Section 107(1) Cr.P.C., the Executive Magistrate before proceeding further, shall issue show-cause notice to the concerned person to show cause as to why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period, not exceeding one year and admittedly, without issuing any show-cause notice, the first respondent has straightaway issued the impugned order under Section 111 Cr.P.C and hence, on the sole ground, the said order is liable to be interfered with and prays for quashment of the same.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned Additional Public Prosecutor would contend that in the event of this Court holding that the impugned order is not



sustainable in Law, may give liberty to the first respondent to rectify the defect and proceed with the matter, afresh.

4.1. This Court after hearing the rival submissions is of the view that the impugned order is liable to be set aside for the following reasons:

4.2 Section 107(1) Cr.P.C., reads as follows:

"107.Security for keeping the peace in other cases.

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of the opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond[with or without sureties] for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit."

4.3. As per the said provision, the jurisdictional Executive Magistrate is under mandate to issue a show-cause notice to the concerned person to show-cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period, not exceeding one year.

4.4. Admittedly, the first respondent has not issued any show-cause notice in terms of Section 107(1) Cr.P.C, but straightaway passed the impugned order under Section 111 Cr.P.C. Therefore, the impugned order warrants interference.

5. In the result, this revision is allowed and the impugned order, dated 31.05.2014 passed in M.C.No.5 of 2014 by the first respondent, the Sub-Divisional Magistrate/Revenue Divisional Officer, Paramakudi, Ramanathapuram District, is set aside and liberty is granted to the first respondent to proceed further in terms of Section 107(1) Cr.P.C. Consequently, connected miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Per.Admn)

/True Copy/

Sub Assistant Registrar

To

- 1.The Sub-Divisional Magistrate/ Revenue Divisional Officer, Paramakudi, Ramanathapuram District.
- 2.The Inspector of Police, Paramakudi Town Police station, Ramanathapuram District.
- 3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1cc to MR.K.SEEMARAJ, ADVOCATE SR.NO.13339

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