



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.6634 of 2016

and

Crl.M.P. (MD)No.3326 of 2016

- 1.Kader Ibrahim
- 2.Abdul Kader
- 3.Kani Abdullah
- 4.Jamal Mydeen
- 5.Abuthahir Haneefa
- 6.Ibrahim Puli
- 7.Navab John
- 8.E.Kanava Pitchai
- 9.Seeniappa
- 10.Sikkander Batcha

..Petitioners/B-Party

Vs

- 1.The Sub Divisional Magistrate/  
Revenue Divisional Officer,  
RDO, Office,  
Madurai.
- 2.The Inspector of Police,  
Silaiman Police Station,  
Madurai.  
(Crime NO.28 of 2016)
- 3.M.Abdul Rahim
- 4.K.A.Rasool Mydeen
- 5.M.Abdul Muthalif
- 6.Abdullah @ Kool Rawther
- 7.Seeni Mohamed
- 8.Abdul Wahid
- 9.Raja Mohamed

.. Respondents/Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the order passed by the respondent NO.1 in M.C.No.672/2016/M dated 27.01.2016 and quash the same.

For Petitioners

:Mr.S.M.A.Jinnah

For Respondents

:Mrs.S.Prabha

Government Advocate (Crl.Side)  
for R.1 and R.2

O R D E R

<https://hcservices.ecourt.gov.in/hcservices/> This petition has been filed to call for the records pertaining to the order passed by the respondent NO.1 in M.C.No.672/2016/M dated 27.01.2016 and quash the same.



2. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the State.

3. It is seen that the respondent police registered a case in Cr.No.28 of 2016 on 24.02.2016 for the offence under Section 107 Cr.P.C. and has referred the matter to the Sub Divisional Magistrate/Revenue Divisional Officer, Madurai for taking proceedings under Section 107 Cr.P.C. The Revenue Divisional Officer has only issued show cause notice dated 27.01.2016 calling upon the petitioners to appear on 29.01.2016 at 06.00 p.m. and show cause as to why they cannot execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only)

4. The learned Counsel for the petitioner relied upon a judgment of this Court in **K.Rajasekar @ Rajkumar and Others Vs. the Sub Collector cum Sub Divisional Magistrate, Nagercoil Sub Division and Others** reported in {2013 (1) T.N.L.R. 481 (MAD) (MB)} and paragraph No.5 of the judgment is as follows:

"5. In view of the dictum laid down in the above decisions, the preliminary order passed under Section 111 Cr.P.C. by the learned Sub-Divisional Executive Magistrate in Pa.Ve.No.MC 28/2012/A3/3990/2012, dated 05.11.2012 is liable to be quashed and accordingly, it is ordered by allowing this quash petition. However, it is open for the learned Magistrate to take action afresh against the parties separately, in accordance with law, depending upon the necessity on prevailing circumstances. Consequently, connected miscellaneous petition is closed."

5. Section 107 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 tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of 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, 1\*[with or without sureties,] for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

6. From the reading of the aforesaid provision, there is no mandate for the Authorities to record the opinion similar to



Section 145(1) Cr.P.C. It is submitted by the learned Counsel for the petitioner that in the same proceedings, both parties have been arrayed as "A" party and "B" party which is defective.

7. In the considered opinion of this Court, this is a curable defect and will not cause prejudice to the petitioner, especially when only show cause notice has been issued asking them to appear. It is always open to the petitioners to appear before the Revenue Divisional Officer with an Advocate of their choice and show cause as to why they need not have to furnish the bond.

8. The learned Counsel for the petitioner submitted that the petitioners have appeared two or three times before the Revenue Divisional Officer, but the Revenue Divisional Officer has not passed any order.

9. It is the common knowledge that the elections to the Tamil Nadu Assembly has been notified by the Election Commission and the Revenue Officials have been assigned various roles for the peaceful conduct of elections. Therefore, they cannot be expected so give priority to the instant case. However, this Court directs the Revenue Divisional Officer to complete the proceedings within a period of two months, after the completion of election process. Liberty is given to the petitioners to appear through an Advocate of their choice before the Revenue Divisional Officer and present their case.

10. With the above directions, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

To

- 1.The Sub Divisional Magistrate/  
Revenue Divisional Officer, RDO, Office,  
Madurai.
- 2.The Inspector of Police,  
Silaiman Police Station,Madurai.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,Madurai.

sm:17.5.2016:3P/4C

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and

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