



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.167 of 2016
and CrI.M.P. (MD) No.2407 of 2016

Jegan @ Billa Jegan

... Petitioner / Respondent

-vs-

- 1.The Sub Divisional Magistrate and Sub Collector,
Thoothukudi,
Thoothukudi District.
- 2.The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi,
Thoothukudi District.
(Crime No.644 of 2015)

... Respondent / Petitioner

PRAYER: Criminal Revision Petition is filed, under Section 397(1) r/w 401 Cr.P.C., to call for the records and set aside the order in M.C.No.107/56/16, on the file of the Sub Divisional Magistrate and Sub Collector, Thoothukudi, Thoothukudi District dated 25.01.2016.

For Petitioner : Mr.A.Thiruvadikumar
For Respondents : Mrs.S.Prabha
Government Advocate (Criminal side)

O R D E R

The revision petitioner in this revision challenges the order of Sub-Divisional Magistrate, Tuticorin passed in M.C.No.107/56/16.

2.Heard both sides.

3.Under Section 107 Cr.P.C. the revision petitioner has been asked to execute a bond to keep peace for one year. This order has been passed by the Sub-Divisional Officer/Sub Collector, Tuticorin in M.C.No.107/56/16.

4.Section 397(1) Cr.P.C. gives revisional jurisdiction to the Court. This revisional power can be exercised by this Court and also by the Sessions Court. It is concurrent. It is pertinent to

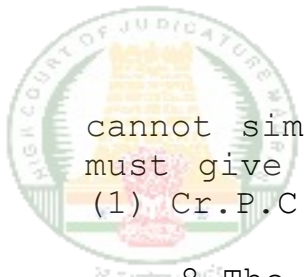
Court. He
the Code

6. Section 107 Cr.P.C. runs as under:

(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 tranquility or to do any wrongful act as aforesaid beyond such jurisdiction."

<https://hcservices.courts.gov/hcservices/>

7. Under Section 107(1) Cr.P.C. the Executive Magistrate were given power to act if they receive any information that it is a fit case that the person should be asked to execute bond to keep peace and good behavior upto one year. A reading of Section 107(1) Cr.P.C. shows that the Executive Magistrate has enormous power. It is pertinent to note that non perform of the terms and conditions of the bond some time lead a person to jail. But it will be without a charge, without a trial. It is a dangerous power. It grants more power to Executive Magistrate . Section 107(1) Cr.P.C. does not give a check on their powers. Under Section 107(1) Cr.P.C. The Executive Magistrate must record his subjective satisfaction. Thus, he cannot pass oral orders under Section 107(1) Cr.P.C. He



cannot simply pass orders according to his whims and fancies. He must give reason though not elaborately but briefly. Section 107 (1) Cr.P.C. acts as a check on the arbitrary exercise of power.

8. The impugned order passed by the Sub-Divisional Magistrate/Sub Collector, Tuticorin in M.C.No.107/56/16 runs as under:

"C.P. Produced. Case taken on file today.
Released on execution of bond for good behaviour
for a period of 12 months and Rs.1,00,000/-
(Rupees One lakh only)."

9. The Sub Collector has completely not followed the guidelines provided in Section 107 Cr.P.C. It is an one line order. It is not a proper order. This order is vitiated. It will not stand in the eye of law. It is violation of provisions of Sections 107(1) and 107(2) Cr.P.C.

10. Now, in this case for an alleged instance F.I.R. in Crime No.644 of 2015 under Section 107 Cr.P.C. has been registered by the Tuticorin North Police Station. Registration of F.I.R. will arise only if a cognizable offence is disclosed. There cannot be registration of F.I.R. under Section 107 Cr.P.C. If F.I.R. is registered under Section 107 Cr.P.C. it is against law. This is one aspect of the matter.

11. In view of the foregoing this Criminal Revision is allowed. The impugned order of the first respondent in M.C.No.107/56/16 dated 25.01.2016 is set aside. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To:

1. The Sub Divisional Magistrate and Sub Collector,
Thoothukudi, Thoothukudi District.

2. The Inspector of Police, Thoothukudi North Police Station,
Thoothukudi, Thoothukudi District.

+1 cc to M/s.A.Thiruvadikumar, Advocate in SR.No.29941

sj

CSL/ARK-PV/23.06.2016 : 3p/4c