

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.14771 OF 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in Cr.No.60 of 2016 of Kaluvoya Police Station, Nellore District and proceedings of Revenue Divisional Officer and Sub-Divisional Magistrate, Atmakur, Nellore District in M.C.No.4 of 2016 dated 13.9.2016

During hearing, learned counsel for the petitioners not pressed the claim of quashing proceedings in M.C.No.4 of 2016 dated 13-9-2016 and endorsed the same on the document of the petition.

The main ground urged before this Court is that since the proceedings were initiated under Section 107 of Cr.P.C. by the Executive Magistrate, Station House Officer has no jurisdiction to register the crime.

It is pertinent to refer Section 107 Cr.P.C.

Section 107 Cr.P.C. reads as follows:

(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.

By exercising the power conferred on him, the Executive Magistrate issued proceedings in M.C.No.4 of 2016 dated 13-9-2016 after following necessary principles provided under Section 107 of Cr.P.C.

Section 107 Cr.P.C. is not penal provision to punish the persons who breached peace and disturbed public tranquility and the security proceedings are not punitive but are preventive as held in 1968 M.L.J.(Cri) 451.

Therefore, the question of registering F.I.R. by police, when the offence is not cognizable and if it is not punitive but is preventive, does not arise and as such, registering crime in Cr.No.60 of 2016 under Section 107 Cr.P.C. by Kaluvoya Police Station, Nellore District is illegal.

Hence, proceedings crime in Cr.No.60 of 2016 under Section 107 Cr.P.C. of Kaluvoya Police Station, Nellore District. is hereby quashed.

Accordingly, this Criminal Petition is allowed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 20-10-2016.

Dvs.



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Dated 20-10-2016.

Dvs