

THE HON'BLE SRI JUSTICE RAJA ELANGO

Crl.P. No.1747 of 2014

ORDER

This petition u/s.482 Cr.P.C. is filed by the petitioners/A party Nos.1 and 3 to 11 seeking to quash the proceedings in M.C.No.8 of 2013 on the file of Sub-Divisional Magistrate, Kakinada, against them.

2. It is alleged that at Ganganapalli Village, the Kapu community people have divided into two groups and they resorted to acts of violence creating law and order problems. Hence, on the complaint of a Police Officer, a case in Cr.No.184 of 2013 u/s.107 Cr.P.C., was registered against the petitioners and consequently, the Sub-Divisional Magistrate, Kakinada, issued a notice on 28.10.2013 to the petitioners to appear in person before the Court on 08.11.2013 and the same is pending.

3. Heard and perused the material on record.

4. Learned counsel for the petitioners submits that as per the provisions of Section 107 Cr.P.C., the Magistrate has to demand the petitioners for execution of a bond for keeping peace for such period not exceeding one year, but the said procedure has not been followed in the present case and therefore, the proceedings in M.C. are liable to be quashed.

5. As per Section 107 Cr.P.C., an Executive Magistrate can demand execution of a bond from any person who is likely to commit a breach of peace or disturb the public tranquillity for a period of one year. In the present case, there is no such direction to the petitioners to execute a bond for keeping the peace for a period of one year. Since the M.C. is of the year 2013 and the procedure as contemplated U/s.107 Cr.P.C. has not been followed by the learned Magistrate, this Court is of the view that the impugned proceedings are liable to be quashed and are accordingly quashed against the petitioners. However, it is left open to the Sub-Divisional Magistrate to proceed afresh if there is apprehension of breach of peace in that area.

6. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

JUSTICE RAJA ELANGO

22nd February, 2016

sj