

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2017

CORAM

THE HONOURABLE MR. **JUSTICE R.MAHADEVAN**

Crl.O.P.No.2476 of 2017
and
Crl.MP.Nos.1741 and 1742 of 2017

Rajendran

... Petitioner

Vs

1.Sub Divisional Magistrate -
cum – Assistant Collector,
Dharapuram,
Tiruppur District.

2.The Inspector of Police,
Dharapuram Taluk,
Tiruppur District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records pertaining to the impugned order of the first
respondent herein under Section 111 Cr.P.C dated 23.12.2016 in
M.C.No.5/2016/E and quash the same.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.C.Emalias, APP

ORDER

The present Criminal Original Petition has been filed to
call for the records pertaining to the impugned order dated
23.12.2016 passed by the first respondent under Section 111 Cr.P.C
in M.C.No.5/2016/E and quash the same.

2. It is the case of the petitioner that the second

respondent has registered a case in Cr.No.727 of 2016 dated 24.09.2016 against him for the alleged offence punishable under Section 107 Cr.P.C. and filed a report before the first respondent. Based on the same, the first respondent has arrived at a subjective satisfaction that the petitioner would cause hindrance or disturbance to the public peace and tranquillity and the same would be prevented for maintaining law and order situation in the area. Accordingly, the first respondent has passed the impugned order, directing the petitioner to appear before her and explain as to why he should not be directed to execute a bond for a sum of Rs.1,000/- with surety for keeping good behaviour and public peace for a period of one year. Aggrieved over the same, the petitioner is before this court with the present petition.

3. Learned counsel for the petitioner submitted that without following due procedure as contemplated under the Act and without providing an opportunity to the petitioner to have his say, the first respondent has passed the impugned order, which is illegal and against the principles of natural justice. Therefore, learned counsel sought for setting aside the order passed by the first respondent.

4. Heard the learned Additional Public Prosecutor appearing for the respondents, who supports the order impugned herein.

5. A perusal of the order impugned herein would reveal

that the first respondent before arriving at the subjective satisfaction and passing the impugned order, has not provided reasonable opportunity to the petitioner to put forth his contention and place supportive documents in support of his case. Such course adopted by the first respondent, as rightly argued by the learned counsel for the petitioner, is illegal and against the principles of natural justice. On this score alone, the impugned order is liable to be set aside.

6. Accordingly, this Criminal Original Petition is allowed and the order order dated 23.12.2016 passed by the first respondent under Section 111 Cr.P.C in M.C.No.5/2016/E is quashed. The matter is remanded back to the first respondent for fresh consideration. The petitioner is directed to appear before the first respondent and file an application narrating all the facts in detail and enclosing necessary documents. On filing such application and documents, the first respondent is directed to consider the same and pass appropriate orders on merits and as per law. Consequently, connected Miscellaneous Petitions are closed.

14.03.2017

rk

Index:Yes/No

R.MAHADEVAN, J.

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To

- 1.Sub Divisional Magistrate -
cum – Assistant Collector,
Dharapuram,
Tiruppur District.
- 2.The Inspector of Police,
Dharapuram Taluk,
Tiruppur District.
- 3.The Public Prosecutor,
High Court, Madras.

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