



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

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CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.10300 of 2017 and
Crl.M.P(MD).No.7030 of 2017

1. Petchaikutti
2. Mariyappan
3. Pathirakali
4. Nainar
5. Poovalingam
6. Madasamy

...Petitioners

-Vs-

1. The Revenue Divisional Officer,
Cum - Sub Collector,
Thoothukudi.
2. State. Rep. by
The Inspector of Police,
Pudhukottai Police Station,
Thoothukudi District.
(Crime Nos.151 and 152 of 2017)
3. Lakshmanaperumal @ Kutti
4. Rajapandi
5. Sankar Ganesh
6. Sornam
7. Sankaralingapillai
8. Balamurugan
9. Muthuraj Krishnan
10. Mathan
11. Murugan
12. Lakshmanaperumal
13. Karuppasamy
14. Alagar
15. Ramar
16. Marimuthu

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the proceedings of the 2nd respondent in Crl.O.P.(MD)No.10300 of 2017 dated 08.05.2017 and quash the same.



For Petitioner : Mr.S.Ramasamy
For Respondents : Mr.K.Anbarasan
Government Advocate (Crl.Side)

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O R D E R

This petition is filed to call for the records pertaining to the proceedings of the 2nd respondent in AA1/Crpc.107/76/2017 dated 08.05.2017 and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondents 1 and 2.

3. As per the impugned notice, issued by the Sub-Collector, Tuticorin, dated 08.05.2017, it is stated that between two rival groups, there was serious dispute regarding the offering of worship in the temple. They were called upon to show-cause as to why they should not be asked to execute a security bond for maintenance of peace.

4. This Court is of the view that impugned proceeding is nothing but a show cause under Section 107 of Crl.P.C. The impugned notice clearly disclose the requirement of Section 111 of Cr.P.C. Already case was registered in crime No.149 of 2017 for the offences under Sections 147, 294(b), 323 and 506(ii) of IPC. In the circumstances, as stated in the impugned notice, the power has been rightly exercised by the Sub-Collector, first respondent.

5. In support of his contention, the learned counsel appearing for the petitioner relied upon the Judgment reported in 2016-1-LW (Crl) 377 in the case of Marimuthu and others Vs. The Sub Divisional Magistrate, Revenue Divisional Officer, Aruppukkottai. In the above said Judgment, it has been held that no joint enquiry can be conducted under Section 116 of Cr.P.C. The Judgment of this Court reported in 2006(3) CTC page 792, was relied upon in that case. Only because the parties have been directed to appear on the same day at the same time, the proceedings was quashed in that case.

6. However, in the notice impugned in the present petition both parties were directed to appear before the Sub-Collector on 15.05.2017 at different times. Hence, this notice is not for joint enquiry. Further, enquiry by the second respondent itself was over long back.

<https://hcservices.ecourts.gov.in/hcservices/> circumstances, the petition filed under Section 482 Cr.P.C on the ground that the first respondent has no power under Section 107 of Cr.P.C to hold joint enquiry cannot be



sustained. Accordingly, the Criminal Original Petition is
dismissed. Consequently, connected Miscellaneous Petition is
closed.

Sd/-

Assistant Registrar(Writs)

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/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,
Pudhukottai Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.S.Ramasamy, Advocate SR.No. 71022

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Cr1.M.P(MD).No.7030 of 2017
07.08.2017

trp

JM/MR KKR/SAR 2/23.08.2017/3P/4C