



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P(MD)No.11081 of 2017 and
CRL.M.P. (MD)Nos.7570 & 7571 of 2017

1. Narayanan
2. Manoharan
3. Kadarkaraivel
4. Kasi Raja
5. Muniyasamy

... Petitioners/B-Parties

Vs.

1. The Revenue Divisional Officer
cum Executive Magistrate,
Kovilpatti,
Tuticorin District.

... 1st Respondent/Complainant

2. The Inspector of Police,
Soorankudi Police Station,
Tuticorin District.

(In Crime No.117 of 2016) ... 2nd Respondent/Defacto Complainant

3. Kanni Samy
4. R.Manikavel
5. Gopal
6. Vel Murugan
7. Muthu Samy

... Respondents 3 to 7/A Parties

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call records relating to the impugned proceedings of the first respondent in M.C.No.A1/558 of 2016, dated 20.09.2016 on the basis of the Charge Sheet laid by the second respondent without authority and to quash the same.

For Petitioners	: Mr.R.Murugan
For R-1 & R-2	: Mr.K.Anbarasan,
	Government Advocate(Crl.Side).

O R D E R

This Criminal Original petition is filed for quashing the impugned proceedings of the first respondent in M.C.No.A1/558 of 2016, dated 20.09.2016 on the basis of the Charge Sheet laid by the second respondent without authority.



2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal side) appearing for the respondents 1 and 2.

3. On the basis of the information regarding the dispute between two groups of a particular community, a case was registered in Crime No.117 of 2016. The accused Nos.1 to 5 were shown as 'A' parties and accused Nos.6 to 10 were shown as 'B' parties. It was stated in the First Information Report that there is a dispute between two groups in connection with worshipping of a deity, by name, Arulmighu Sri Badrakaliamman temple and that there is a likelihood of some law and order problem in future.

4. It was only in suspicion of some law and order problem, it is stated that the case was registered under Section 107 of Cr.P.C. Based on the First Information Report, a Charge Sheet was also filed under Section 107 Cr.P.C., representing the same contents of the First Information Report. It was thereafter, summons were issued to the accused by the Sub Divisional Magistrate, Kovilpatti and in the proceedings of the Sub Divisional Magistrate, Kovilpatti, dated 29.06.2017, the members of 'B' party were asked to attend and to answer the Charge Sheet in Crime No.117 of 2016.

5. From the facts narrated above, the whole thing appears to be proceeded on the wrong understanding of the scope and the object and purpose behind the said provisions. The First Information Report was registered for the offence under Section 107 of Cr.P.C. Section 107 of Cr.P.C., does not contemplate registration of a case for any cognizable offence. When the Executive Magistrate receives an information that any person or group of persons are likely to disturb public peace and tranquillity or such persons are likely to do any wrongful act that may probably occasion a breach of peace and disturb the public tranquillity, it is open to the Executive Magistrate to enquire such person to show cause why he should not be ordered to execute a bond with or without sureties for keeping public peace, for such period not exceeding one year, as the Magistrate thinks fit.

6. Section 111 of Cr.P.C., speaks about the ingredients or the requirements for initiating action under Section 107 of Cr.P.C. Section 116 of Cr.P.C., contemplates an enquiry as to the truth of the information, pursuant to the show cause notice issued to the parties concerned. The nature of orders to be passed pursuant to such enquiry also is indicated in the other provisions.

7. Peculiarly, in this case, the case was registered under Section 107 of Cr.P.C., for the first time, without specifying the service request. The First Information Report in Crime No.117 of 2016, except referring to some law and order issue, in general, likely



to be caused by two factions, no cognizable offence is referred to. On an erroneous understanding of Section 107 Cr.P.C., the case was registered. The police officer concerned though empowered to register the complaint or an information with regard to any cognizable offence, information about the dispute between two factions need not be registered as a criminal complaint as it has been done in this case by invoking Section 107 Cr.P.C. Further, the second respondent also filed a Charge Sheet. The Charge Sheet also does not refer to any offence this is being committed by the parties against the other. Even in the Charge Sheet, it was only stated that there was some dispute between two factions of the same community and that such dispute is likely to create some law and order problem. It was thereafter, notice was issued by the Sub Divisional Magistrate asking the parties who are mentioned in the Charge Sheet to appear in person before the Sub Divisional Magistrate on 24.07.2017.

8. Having regard to the contents of the impugned proceedings this Court is not able to sustain the proceedings, as they were the outcome of erroneous understanding and construction of provisions of the Criminal Procedure Code, particularly, Sections 107, 111, 116 and 118 Cr.P.C. Hence, the Criminal Original petition is allowed and the impugned proceedings of the first respondent in M.C.No.A1/558 of 2016, dated 20.09.2016, is quashed. Consequently, connected Miscellaneous petitions are closed. However, liberty is given to initiate proceedings under Section 107 Cr.P.C., if required after satisfying the requirements of law.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer
cum Executive Magistrate, Kovilpatti, Tuticorin District.

2. The Inspector of Police,
Soorankudi Police Station, Tuticorin District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.R.MURUGAN, Advocate SR.No.74000

pmu

MAS/MR-KKR/SAR3:18.09.2017:3P-5C

CRL OP(MD)No.11081 of 2017

23.08.2017