



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.O.P. (MD) No.13541 of 2017

and

CrI.M.P. (MD) No.9099 of 2017

1.Kasiviswanathan
2.Balamurugan
3.Muthulakshmi

... Petitioners /
Accused (B-Party)

Vs.

1. The Sub-Divisional Magistrate (RDO),
Kovilpatti, Tuticorin District. ... 1st Respondent

2. The State represented by
The Sub-Inspector of Police,
Vilathikulam Police Station,
Tuticorin District.
(in Crime No.97 of 2017)

... 2nd Respondent/ Complainant

3.Sivasankarapandiyan
4.Maheshwari
5.Kasthuribai

... Respondents 3 to 5 /
Accused (A-Party)

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in F.R.No.89 of 2017 on the file of the first respondent (Sub-Divisional Magistrate (RDO) Kovilpatti) and quash the same.

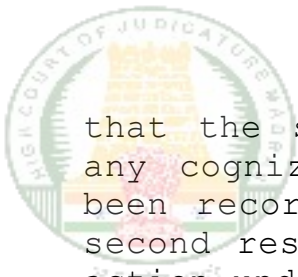
For Petitioners
For R1 and R2

: Mr.P.Santhoshkumar
: Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

The Criminal Original Petition is filed to call for the records in F.R.No.89 of 2017 on the file of the first respondent and quash the same.

2.It appears that the second respondent has lodged a complaint and the same was registered in Crime No.97 of 2017, under Section 107 of Cr.P.C. The copy of the First Information Report reveals



that the second respondent has not registered the complaint for any cognizable offence. The dispute between the two groups has been recorded in the registered First Information Report and the second respondent has recommended the first respondent for taking action under Section 107 of Cr.P.C.

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3.The purpose and object behind registration of crime is to enable the Executive Magistrate to initiate action under Section 107 of Cr.P.C. Since the First Information Report does not disclose any cognizable offence under any of the provisions of IPC or any other statute, the First Information Report, as such is liable to be quashed. It is not necessary for the second respondent to register the First Information Report in the manner, as it was done by the second respondent. Section 107 of Cr.P.C., read 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 with or without sureties for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceeding 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.

5.Section 107 of Cr.P.C. empowers the Executive Magistrate to issue show cause notice as against any group or individual, to show cause why he or they should not be ordered to execute a bond with or without sureties for keeping peace for a period not exceeding one year, based on the information received by the police or other officials.

6.The learned Counsel for the petitioner relied upon a order of this Court in **Cr1.O.P.No.7591 of 2017**, in the case of **Rajkumar vs State represented by Inspector of Police**, wherein, the learned single Judge of this Court quashed the First Information Report, which was registered under Section 107 of Cr.P.C. It has been stated in the order that whenever the police receives information, it might necessitates action by an Executive Magistrate under



Section 107 to 110 of Cr.P.C. and that the same be entered in a separate register and requisition for action shall be made to the Executive Magistrate.

7. Having regard to the position that no registration of First Information Report is required for any action to be taken under Section 107 of Cr.P.C. and that it is only the information that is required for taking action under Section 107 of Cr.P.C., by the Executive Magistrate, this Criminal Original Petition is allowed and the First Information Report in Crime No.97 of 2017 on the file of the second respondent police is quashed. However, the second respondent is at liberty to send his recommendation to the first respondent / Executive Magistrate, so as to enable him to proceed further in accordance with Sections 107 to 110 of Cr.P.C. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Divisional Magistrate (RDO),
Kovilpatti, Tuticorin District. ... 1st Respondent
2. The Sub-Inspector of Police,
Vilathikulam Police Station,
Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Santhoshkumar, Advocate Sr.No.84302

CMR

VB/MR/KKR/SAR4/13/11/2017/3P/5C

CRL.O.P.(MD) No.13541 of 2017
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