



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

Cr1.O.P.(MD) No. 15686 of 2017
and
Cr1.M.P.(MD) No.10421 of 2017

1.Sylasraj

2.Jeyakumar

3.Kesavan

4.Santhoshkumar

5.Radhakrishnan

6.Krishnakumar

7.Muthukrishnan

8.Vinoj

9.Retheesh

...Petitioners

-Vs-

State Represented by
The Inspector of Police,
Pudukadai Police Station,
Kanyakumari District.
Crime No.338 of 2017

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the impugned FIR in Cr.No.338 of 2017 pending on the file of the respondent herein and quash the same as illegal in so far as the petitioners herein are concerned.

For Petitioners
For Respondent

:Mr.B.Brijesh Kishore
:Mr.A.Ramar
Additional Public Prosecutor

ORDER

This Criminal Original petition is filed for quashing the proceedings in Cr.No.338 of 2017 on the file of the respondent / The Inspector of Police, Pudukadai Police Station, Kanyakumari District and to quash the same.



2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

3. It appears that the respondent has lodged a complaint and the same was registered in Crime No.338 of 2017 for the alleged offence under Section 107 of Cr.P.C. The copy of the First Information Report reveals that the respondent has not registered the complaint for any cognizable offence. The dispute between the two groups has been recorded in the First Information Report and the respondent has recommended the case to the Executive Magistrate / District Revenue Officer, Padmanabhapuram for taking action under Section 107 of Cr.P.C.

4. The purpose and object behind registration of crime is stated to be 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 I.P.C., or any other statute, the First Information Report, as such is liable to be quashed. It is not necessary for the respondent to register the First Information Report in the manner, as it was done by the respondent.

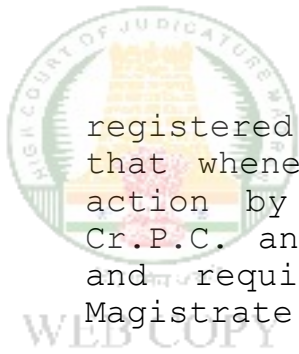
5. **Section 107 of Cr.P.C.**, reads as follows:

(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.*

6. 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.

7. The learned counsel for the petitioners relied upon an order of this Court in **Crl.O.P.No.7591 of 2017**, in the case of **Rajkumar vs State represented by Inspector of Police**, wherein, a learned single Judge of this Court quashed the First Information Report, which was



registered under Section 107 of Cr.P.C. It is stated in the order that whenever the police receives information, it may necessitate action by an Executive Magistrate under Section 107 to 110 of Cr.P.C. and that the same shall be entered in a separate register and requisition for action shall be made to the Executive Magistrate.

8.Having regard to the position that registration of First Information Report is not 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 Cr.No.338 of 2017_on the file of the respondent / The Inspector of Police, Puthukadai Police Station, Kanyakumari District is quashed. However, the respondent is at liberty to send his recommendation to the 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(CRL. SIDE)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
Pudukkadai Police Station,
Kanyakumari District.

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

+1cc to Mr.B.BRIJESH KUSHORE Advocate in SR. No. 88049

MM

JS/JC/SAR.2/4.12.2017/3P-4C

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and

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