



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2017

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

Crl.O.P.(MD) No. 15847 of 2017

and

Crl.M.P.(MD) No.10534 of 2017

1.Ramaiah Nadar
2.Krishnavel
3.Senthil Kumar

...Petitioners

-Vs-

1.State Through
The Inspector of Police,
Eruvadi P.S.,
Tirunelveli District.

2.Sub Divisional Magistrate cum
The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to M.C.No.42 of 2017 on the file of the second respondent herein and quash the same with respect to the petitioners.

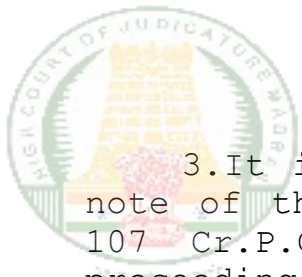
For Petitioners :Mr.P.Subbiah

For Respondents :Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to call for the records pertaining to M.C.No.42 of 2017 on the file of the second respondent herein and to quash the same.

2.The second respondent / the Sub Divisional Magistrate cum the Revenue Divisional Officer, issued a show cause notice under Section 107 Cr.P.C., against the petitioners. Challenging the said notice, the petitioners have preferred this petition stating that the respondents are not involved in any crime and that the impugned show cause notice has been issued without an application of mind.



3.It is stated that the second respondent has failed to take note of the fact that no compliant was registered under Section 107 Cr.P.C., against the petitioners and that therefore the proceedings itself is liable to be quashed and it is further stated that the impugned proceedings issued under Section 111 Cr.P.C., by directing the petitioners to execute a bond, is not sustainable. Except the above submission, the learned Counsel for the petitioners did not raise any other ground.

4.It is to be noted that the notice, issued by the second respondent on 07.11.2017, which is challenged in the present petition, is nothing but a show cause notice issued under Section 107 Cr.P.C. The ingredients of Section 111 Cr.P.C., is clearly disclosed in the show cause notice, based on the information received from the reliable sources.

5.The second respondent has issued the show cause notice calling upon the petitioners and others why they should not be called upon to execute the security bond and produce two sureties for the value of Rs.1,00,000/- for a period of six months. Having regard to the nature of notice and the fact that the notice is in accordance with and compliance of Sections 107 and 111 Cr.P.C., this Court is not inclined to entertain this petition.

6.One of the contentions raised by the petitioners is that the show cause notice is issued, based on the First Information Report which is not maintainable. It is true that the First Information Report registered by the first respondent is on the basis of an incident, which occurred involving the two factions and that the same need not be registered under any provisions of IPC or other provisions of Cr.P.C. Hence, what was done by the first respondent is not contemplated and this Court has also rightly held that such FIR need not be registered for offences under Section 107 Cr.P.C., as the said provision does not deal with any offence. The FIR is only for reference, so that the information required by the respondent police to the Executive Magistrate can be accepted on the basis of FIR. Merely because there is an irregularity in registration of FIR under Section 107 Cr.P.C., the show cause notice cannot be the set aside as the ingredients of Section 111 are satisfied for issuing the show cause notice.

7.Hence, the criminal original petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1.The Inspector of Police,
Eruvadi Police Station,
Tirunelveli District.

2.Sub Divisional Magistrate cum
The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

+1CC to Mr.P.Subbiah, Advocate, SR.No. 88892

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AM/KKR/SAR 2/03.01.2018/3P/4C