



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Crl.O.P. (MD) No.16077 of 2017

in

Crl.M.P. (MD) Nos.10641 and 10642 of 2017

Wilson

... Petitioner

-Vs-

1. The Executive Magistrate,
/ The Assistant Commissioner of Police (Law & Order)
Tirunelveli Town,
Tirunelveli District. ...1st Respondent / No Rank
2. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District. ...2nd Respondent / De-facto complainant

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to proceedings EMC No.240 of 2017 dated 31.10.2017 on the file of the first respondent and quash the same.

For Petitioner : Mr.R.Manimaran

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

ORDER

This Criminal Original Petition has been filed to quash the proceedings EMC No.240 of 2017 dated 31.10.2017 on the file of the first respondent.

2.Heard the learned Counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents.

3.The petitioner received the impugned proceedings. The learned Counsel for the petitioner submitted that it is not a notice issued under Section 107 of Cr.P.C. and that, it is a summon under Section 113 of Cr.P.C.

4.The contention of the petitioner cannot be accepted. Though, the notice refers to Section 113 of Cr.P.C., the notice in fact is a notice under Section 107 of Cr.P.C. It is true that a wrong provision has been referred to in the impugned notice. The



ingredients of Section 107 is satisfied and the impugned notice clearly refers to the dispute between the two factions and there is likelihood of breach of peace. The information furnished to the Executive Magistrate by the police is also referred to.

5.A case has already been registered in Crime No.739 of 2017 for the offences punishable under Sections 147, 148, 448, 294(b), 323, 341 and 506(ii) IPC and Section 3 of TNPPDL Act. The impugned notice specifically refers to the amount for a surety bond which is required and the nature of sureties. The notice is only a show cause notice, calling upon the petitioner to explain as to why he should not be called upon to execute a surety bond for a sum of Rs.50,000/- for a period of one year and to produce sureties.

6.Having regard to the fact that the notice satisfies the ingredients of Section 111 Cr.P.C., this Court is unable to find any reason to interfere with the same. Hence this petition is dismissed. It is open to the petitioner to appear before the first respondent and give his explanation and the first respondent may pass appropriate orders, after receiving the explanation offered by the petitioner and considering the case of the petitioner on merits and in accordance with law. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

1. The Executive Magistrate,
/ The Assistant Commissioner of Police (Law & Order)
Tirunelveli Town,
Tirunelveli District.
2. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Manimaran, Advocate SR.No.88868.

Cmr

MV:KP:SAR1:18/12/2017/2P/5C

Cr1.O.P. (MD) No.16077 of 2017