



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2017

CORAM:

WEB COPY

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

CRL.O.P. (MD) No.17285 of 2017

and

CRL.M.P. (MD) No.11334 of 2017

1.Manikandan

2.Pon Esakki

3.Sundharalinga Pothi

4.Muthu Esakki

... Petitioners / Accused

vs.

1. The Executive Magistrate Cum
the Sub- Collector,
Cheranmahadevi,
Tirunelveli District.

...1st Respondent/Complainant

2. The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.
(In Crime No.213 of 2017)

...2nd Respondent / Complainant

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records in relating to the impugned proceedings of the first respondent in M.C.No.18 of 2017 dated 10.10.2017 and to quash the same as arbitrary.

For Petitioners : Mr.M.S.Jeyakarthik

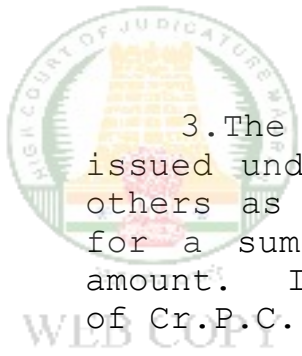
For Respondents : Mr.K.S.Durai Pandian

Additional Public Prosecutor

ORDER

The Criminal Original Petition is filed to issue a direction to call for the entire records in relating to the impugned proceedings of the first respondent in M.C.No.18 of 2017 dated 10.10.2017 and to quash the same.

2.Heard the learned Counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.



3.The impugned notice is nothing but a show cause notice issued under Section 107 Cr.P.C calling upon the petitioners and others as to why they should not be asked to furnish a security for a sum of rupees one lakh and a surety for the equivalent amount. It is not in dispute that the ingredient of Section 111 of Cr.P.C. is found in the impugned notice.

4.The learned Counsel for the petitioners states that the show cause notice is on the basis of the First Information Report in Crime No.213 of 2017, registered under Section 107 of Cr.P.C., and further pointed out that the registration of a First Information Report is not permissible under 107 Cr.P.C. as no cognizable offence is made out. It is true that a complaint can be registered only, if there is a cognizable offence under any of the provisions of IPC or any other penal statute. However that cannot be a ground to quash the show cause notice issued under Section 107 of Cr.P.C. The First Information Report can still be an information required for a notice under Section 107 of Cr.P.C. In the said circumstances, Criminal Original Petition is dismissed with liberty to the petitioners to challenge the First Information Report, if they are so advised. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Executive Magistrate Cum
The Sub- Collector,
Cheranmahadevi,
Tirunelveli District.
2. The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.M.S.Jeyakarthik , Advocate in SR No. 93394

pnn/cmr

AE/KK/SAR4/23.01.2018/2P/5C