



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No.4063 of 2017

and

M.P. (MD) .Nos.2936 and 2937 of 2017

Rajalingam

... Petitioner

Vs.

1. The State represented by
the Sub Inspector of Police,
Kalakadu Police Station,
Tirunelveli District.

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

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in M.C.No.3 of 2017 dated 30.03.2017 on the file of the Sub Divisional Magistrate cum Revenue Divisional Officer, Cheranmahadevi, Tirunelveli District and to quash the same under Section 107 of Cr.P.C.

For Petitioner : Mr.V.Kathirvelu, Senior counsel for
Mr.K.Prabhu

For Respondents : Mr.A.P.Balasubramani
Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition is filed to call for the records in M.C.No.3 of 2017 dated 30.03.2017 on the file of the Sub Divisional Magistrate cum Revenue Divisional Officer, Cheranmahadevi, Tirunelveli District and to quash the same.

2. On the report lodged by Duraisingam, the Sub Inspector of Police, Kalakadu Police Station in Crime No.110 of 2017, the Revenue Divisional Officer has initiated proceedings under Section 107 Cr.P.C., and has issued a show cause notice dated 30.03.2017 under Section 111 of Cr.P.C., calling upon the petitioner to appear on 11.04.2017 at 3.00 p.m. and show cause as to why he should not execute a bond for Rs.2,500/- with two sureties, challenging the same the petitioner is before this Court.

3. Heard Mr.V.Kathirvelu, learned Senior counsel appearing for the petitioner and the learned Government Advocate (Crl.side).



4. Mr.V.Kathirvelu, learned Senior counsel appearing for the petitioner submitted that the petitioner is about 68 years old and the case is alleged against him in Crime No.110 of 2017 and the report in Crime No.110 of 2017 relates the offences of the year 1992, 2008, 2009 and 2014. There are no allegations against the petitioner with regard to any recent incident. That apart, Mr.V.Kathirvelu, learned Senior counsel submitted that on the same day, ie., on 30.03.2017 the Revenue Divisional Officer, Cheranmahadevi, Tirunelveli District has also simultaneously passed orders as to why action should not be taken against the petitioner under Section 117 of the Code. The learned Senior counsel further submitted that the question of invoking Section 117 of the Code will come only after completion of the enquiry and not prior to that.

5. Per contra Mr.A.P.Balasubramanian, learned Government Advocate (Crl.side) refuted the allegations.

6. This Court has given its anxious consideration to the rival submissions.

7. As rightly contended by Mr.V.Kathirvelu, learned Senior counsel that Order under Section 117 Cr.P.C. should have to be passed only at the culmination of the enquiry. Therefore, that part of the order dated 30.03.2017 passed by the R.D.O. relating to Section 117 Cr.P.C., is set aside. However, this Court does not find any infirmity in the show cause notice dated 30.03.2017 issued by the R.D.O. under Section 111 of Cr.P.C., for furnishing a bond. The parameters under which the show cause notice under Section 107 Cr.P.C., can be challenged, has been set out by a Division Bench of this Court in **Mr.Krishnamoorthy and others vs. Special Divisional Magistrate, R.D.O.** reported in **2017 (1) LW Crl.149.**

8. The case on hand does not pass muster the law laid down in the said judgment. The R.D.O. has set out the grounds on which the petitioner is likely to act against public at large. The bond amount and the period is also mentioned therein viz., Rs.2,500/- and six months. Hence, this Court cannot quash the said show cause notice. The petitioner is directed to appear before the R.D.O. on 11.04.2017 either in person or with an advocate of his choice and the R.D.O. is directed to complete the enquiry within four months from 11.04.2017.

9. This Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

1. Sub Inspector of Police,
Kalakadu Police Station,
Tirunelveli District.

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

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

+1 cc to Mr.K.PRABHU, Advocate, SR.No. 50856

Crl.O.P. (MD) No.4063 of 2017
07.04.2016

das/akv

MKV-SKN-RSK-SAR 3/11.4.2017/3P-5C