

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.12647 OF 2017

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.93 of 2017 of Sabbavaram Police Station, Visakhapatnam, registered for the offence punishable under Section 107 Cr.P.C., based on the report of T.Malleshwar Rao, S.I of Police.

Section 107 Cr.P.C. deals with the powers of the Executive Magistrate to pass order maintaining security for keeping peace in the area. 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 and that the proceedings 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.

In the present case, instead of initiating proceedings before the Executive Magistrate, the police themselves registered a crime, who has no power to register the crime under Section 107 Cr.P.C and issue FIR. The very registration of the crime and issue of FIR is

without authority, illegal. Therefore, the FIR in Crime No.136 of 2017 is hereby quashed while permitting the Executive Magistrate to pass appropriate orders, if no order is passed.

Accordingly, the criminal petition is allowed quashing the proceedings in Crime No.93 of 2017 of of Sabbavaram Police Station, Visakhapatnam, registered for the offence punishable under Section 107 Cr.P.C. against the petitioner, at the stage of admission.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

20.12.2017
kvrm

M.SATYANARAYANA MURTHY,J

