

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.08.2018

PRONOUNCED ON : 20.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.R.C.No.803 of 2018
and
Crl.M.P.No.9167 of 2018

- 1.T.A.Abdul Munaf @ Manaf @ Munaf (A1)
- 2.Sadam @ Sadam Hussan (A5)
- 3.Koolai Samsu @ Samsu @ Samsudeen (A6) .. Petitioners/Accused

-vs-

State Represented by,
The Inspector of Police,
B1, Bazaar (Law & Order) Police Station,
Coimbatore,
Coimbatore District.
(Crime No.808 of 2018) ...Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 397
r/w 401 Cr.P.C., praying to call for the records made in
Proceedings made in M.C.No.5 of 2018 dated 26.06.2018 on the
file of the Executive Magistrate-cum-Deputy Commissioner,
Traffic-Incharge (Law & Order), Magistrate Court, Coimbatore
City and set aside the same as illegal.

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.R.Suryaprakash,
Government Advocate (Criminal side)

ORDER

This Criminal Revision Case is filed against the
impugned proceedings dated 26.06.2018 in M.C.No.5 of 2018,
passed by the Executive Magistrate-cum-Deputy Commissioner of
Police, Traffic-incharge (Law and Order), Magistrate Court,
Coimbatore City.

2. The learned counsel for the revision petitioner submitted that the impugned proceedings passed by the Executive Magistrate-cum-Deputy Commissioner of Police, Traffic (i/c) (L&O) Magistrate Court, Coimbatore city is against the provisions of law governing under Section 107 Cr.P.C., and the law laid down there on.

3. Mr.R.Suryaprakash, learned Government Advocate (Criminal side) filed objections and submitted that the order impugned in this revision is in accordance with law.

4. After hearing the rival contentions of both the parties and perusing the case papers produced by the learned Government Advocate (Criminal side) and the objections filed by the respondent, it is seen that based on the secret information, the accused persons viz., Abdul Munaf (A1-petitioner herein), Akram Sindha(A2), Jafar Ali(A3), Hansath (A4), Sadham Hussain (A5-petitioner herein) and Samsudeen (A6-petitioner herein) were involved in B-1, Bazaar (L&O) Police Station, in Crime No.258 of 2017 for the offence under Sections 302 IPC @ 365, 147, 148, 341, 294(b), 302 IPC r/w 120 IPC. During the course of investigation, the case was transferred to CBCID, based on the higher official's direction and after completion of detailed and elaborate investigation, CBCID laid a charge sheet in S.C.No.195 of 2017, which is now pending on the file of the District Sessions Court, with regard to the murder of one Parook, who had tweeted his opinion against the Muslim religion. Subsequently, the secret information revealed that the above said accused persons conspired together and decided to commit murder of another person, namely, Omkar Balaji, S/o.Arjunsampath, who is the Secretary of the Hindu Makkal Katchi, who was also tweeted his opinion against Muslim religion.

5. It is seen from the files that in order to avoid law and order problem and for maintenance of peace, a case was registered by the Inspector of Police, B1-Bazaar Police Station, in Crime No.808 of 2018 under Section 107 Cr.P.C., by the respondent police on 21.06.2018 at 15.00 hours and the same was submitted before the Deputy Commissioner of Police for further enquiry.

6. Pursuant to the registration of the above said crime number, under Section 107 Cr.P.C., summons were sent to A1 to A6 to appear before the police for enquiry and they were appeared for enquiry on 28.06.2018. After enquiry, the Deputy Commissioner of Police-cum-Executive Magistrate issued show cause notice by directing A1 to A6 to execute a bond for a sum of Rs.5,00,000/- with a surety and call for explanation on 03.07.2018 and directed them to appear before him on 18.07.2018 for further enquiry. On 18.07.2018, they were appeared for enquiry and after hearing, the matter was posted for further enquiry on 31.07.2018. It is also

seen from the records that A1, A5 and A6 were detained under Act 14 of 1982 (Goondas Act), by the orders of Commissioner of Police, Coimbatore and the second petitioner, who is the fifth accused is a history sheeted rowdy in H.S.No.7 of 2013 of D-3, Podhanur Police Station and he is also having many antecedent cases, the same is as under :

Sl.No.	Police Station & Crime No./Section of Law	Stage of the case
1	D-3, Pothanur Police Station, Crime No.407 of 2013, u/s. 147, 148, 452, 323 & 307 IPC & 3 of TNPPDL Act	Pending Trial
2.	D-3, Pothanur Police Station, Crime No.44 of 2012, u/s.147, 148, 294(b), 341, 323, 324, 307 IPC.	Pending Trial
3.	Coimbatore City, B-2, Crime Police Station, Cr.No.125/2009, u/s.379 IPC.	Pending trial C.C.No.306 of 2009
4.	Coimbatore City, B-1, Crime Police Station, Cr.No.136/2009, u/s.379 IPC.	Pending trial C.C.No.249 of 2009
5.	Coimbatore City, B-2, Crime Police Station, Cr.No.173/2009, u/s.379 IPC.	NTF
6.	Coimbatore City, B-2, Crime Police Station, Cr.No.176/2009, u/s.379 IPC.	Pending trial C.C.No.31 of 2010
7.	Tirunelveli City, Melapalayam Police Station, Cr.No.82/2017, u/s.294(b), 363, 506(ii), 102, 197 IPC.	Pending trial
8.	B-1, Bazaar Police Station, Cr.No.258/2017, u/s.302@ 147, 148, 341, 294(b), 302 IPC r/s.120(b) IPC.	Pending trial S.C.No.195 of

7. On perusal of the records and also the impugned proceedings passed by the Deputy Commissioner of Police-cum-Executive Magistrate, Coimbatore City, dated 28.06.2018, this Court finds that initially a show cause notice was issued on 28.06.2018 in M.C.No.5 of 2018 based on the Crime No.808 of 2018, registered in B1-Bazaar Police Station, wherein the accused were directed to appear on 28.06.2018. Further, on 28.06.2018 there was a proceedings by the Executive Magistrate-cum-Deputy Commissioner of Police (L&O), Coimbatore City, wherein he has stated the history of crime and the reason for calling upon the accused to execute a bond to maintain public peace and order has been clearly spelled out. He has also stated the details of previous cases involved and the period for which the bond has to be executed and the quantum of bond to be executed are all clearly spelled out in the impugned proceedings, dated 28.06.2018.

8. In this connection, the Honourable High Court in Palani vs. Inspector of Police reported in (2006) 2 MLJ (Cr1) 72 has held that in order to demand security for keeping public peace, order to be passed by Magistrate, Substance of information, amount of bond, term and sureties have to be furnished.

9. In yet another decision, the Honourable High Court in Adimadavan vs. State, by the Sub Divisional Executive Magistrate-cum-Revenue Divisional Officer, Salem reported in (2003) MLJ (Cr1) 600 (Mad) has held that proceedings under Section 107 Cr.P.C., can be initiated based on a single occurrence and it cannot be quashed.

10. Taking into consideration all the substances of the show cause notice and the order passed, this Court finds that in the said impugned order, the substance of information received as well as the amount of bond to be executed, the term for which it is to be in force and the number, character and class of sureties are passed under Section 111 Cr.P.C. The Executive Magistrate-cum-Deputy Commissioner of Police, has ascertained the truth of the information and they need to take action under Section 107 Cr.P.C. Thus I am of the considered view that in view of the ratio laid down in the two decisions cited supra, the order impugned in this revision is passed in consonance with Sections 107 and 111 Cr.P.C., and hence, need no interference. Therefore, this revision has no merits and I am not inclined to grant the relief prayed in this revision.

11. Accordingly this Criminal Revision Case is dismissed.
Consequently, connected miscellaneous petition is dismissed.

pjl

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Executive Magistrate-cum-Deputy
Commissioner of Police,
Traffic (in-charge) (Law and Order),
Magistrate Court,
Coimbatore City.
2. The Public Prosecutor,
High Court, Madras - 104.
3. The Inspector of Police,
B-1, Bazaar (Law and Order),
police Station,
Coimbatore District,
Coimbatore.

CRL.R.C.No.803 of 2018

VD(CO)
KAK(26/12/2018)

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