

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.29473 of 2018
and
CrI.M.P.No.17317 of 2018

Bhuvaneshwari

... Petitioner/A-Party

Vs.

State rep. by
The Inspector of Police,
Katpadi Taluk Police Station,
Vellore District.

... Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records in respect of the proceeding No.NIL of 2018 dated 01.12.2018 passed by the respondent and quash the same.

For Petitioner : Mr.D.Rajagopal

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the proceedings of the respondent police dated 01.12.2018, wherein the petitioner has been restrained from carrying on with any work in the disputed property.

2. It is seen from records that the respondent police have already referred the dispute before the Executive Magistrate under Section 107 of Cr.P.C. While so, the respondent police have proceeded to pass an order dated 01.12.2018 to the effect that the petitioner should not carry on with any work in his property till the proceedings under section 107 Cr.P.C. is completed before the concerned authority.

3. The learned Counsel for the petitioner would submit that the respondent police has no power, authority or jurisdiction to pass this order. The learned counsel would further submit that

only the Executive Magistrate can pass orders under section 111 of Cr.P.C. after enquiring the parties concerned.

4. This Court is able to see force in the submissions made by the learned counsel for the petitioner. The respondent police have exercised the power which they do not possess. The respondent police do not have the power to pass an order of this nature and the order is per se illegal and it has to be interfered by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

5. In the result, the order dated 01.12.2018, passed by the respondent police is hereby quashed. It is left open to the parties to put forth their contention before the Executive Magistrate, before whom the dispute has been referred under section 107 of Cr.P.C. The respondent police shall await the orders of the Executive Magistrate in this regard and shall not take any action till then.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

arb/ub

To

1.The Inspector of Police,
Katpadi Taluk Police Station,
Vellore District.

2.The Additional Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Rajagopal, Advocate SR.No.87524

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and

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NMI (CO)
GMY (09/01/2019)