



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.16218 of 2018

and

CrI.M.P. (MD) .No.7191 of 2018

1.S.P.D.Karuppiah

2.Dhanalakshmi

.. Petitioners

-Vs-

1.The Revenue Divisional Officer,
Court of Sub Divisional Magistrate (RDO),
Devakottai,
Sivagangai District.

2.The State Through,
The Inspector of Police,
Karaikudi South Police Station,
Sivagangai District.

.. Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records connected with the case in C.C.No.FR-184/2017-Original on the file of the Sub Divisional, Magistrate (RDO), Devakottai and quash the same as illegal.

For Petitioners : Mr.R.Alagumani

For Respondents : Mr.M.Chandra Sekaran

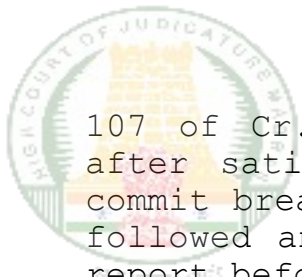
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the final report filed by the second respondent before the Sub Divisional Magistrate.

2.It is seen from the records, that the second respondent has followed a procedure which is alien to the Code of Criminal Procedure. The second respondent has filed a final report under Section 173 of Cr.P.C. by quoting the offences as Section 107 of Cr.P.C and this final report has been filed before the Special Divisional Magistrate (Revenue Divisional Officer). It is also seen that the dispute is between the husband and wife.

3.The entire procedure followed by the second respondent is patently illegal. If there is a breach of peace, before initiating proceedings under Section 107 of Cr.P.C, an FIR has to be registered and the same has to be sent to the Executive Magistrate for the purpose of conducting an enquiry. A Magistrate acting under Section



107 of Cr.P.C, has to issue notice under Section 111 of Cr.P.C. after satisfying himself that the persons involved are likely to commit breach of peace. In this case, none of these procedures are followed and straight away the second respondent has filed a final report before the first respondent.

WEB COPY

4. In the facts and circumstances of the case, this Court has no hesitation to quash the final report filed in C.C.No.FR-184/2017 before the first respondent.

5. Accordingly, this Criminal Original Petition is allowed and the final report filed in C.C.No.FR-184/2017 before the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar(CS-II)

To

1. The Revenue Divisional Officer,
Court of Sub Divisional Magistrate (RDO),
Devakottai,
Sivagangai District.
2. The Inspector of Police,
Karaikudi South Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P. (MD) No.16218 of 2018
and
Crl.M.P. (MD) .No.7191 of 2018
11.09.2018

TM
KK/SV/SAR-2/23.10.2018/2P-4C