

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.8735 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, is filed by the petitioner/accused to quash the Proceedings No.C/84/2018, dated 26.04.2018, pending on the file of Executive Magistrate and Tahsildar, Vemulawada, pursuant to registration of Crime No.159 of 2018 of Vemulawada Police Station, Rajanna Siricilla District under Section 109 of Cr.P.C.

2. Heard the learned counsel for the petitioner, learned Public Prosecutor appearing for the respondent – State and perused the material on record.

3. The main submission of learned counsel for the petitioner is that no crime need be registered under Section 109 of Cr.P.C., as it is not an offence, *prima-facie*, under any law and, at best, the Executive Magistrate is competent to issue proceedings to secure good behaviour from suspected person and filing of charge sheet before the Executive Magistrate and Tahsildar is an illegality and finally requested this Court to quash the proceedings No.C/84/2018, dated 26.04.2018.

4. Learned Public Prosecutor appearing for the respondent-State opposed the Petition.

5. Admittedly, Section 109 of Cr.P.C. deals with the powers of Executive Magistrate. When an Executive Magistrate receives information that within his local jurisdiction a person is taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to commit a cognizable offence, the Magistrate may, in the manner provided therein, require such person to show cause why he should not be

ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

6. But a charge sheet is filed by the Station House Officer, Vemulawada P.S. before the Executive Magistrate, Vemulawada, requesting the Executive Magistrate to bound over the petitioner under Section 109 of Cr.P.C. for keeping good behaviour for a period of one year and further sought to take surety amount of Rs.1,00,000/- each and forfeit the same if they violate the provisions of law.

7. From a perusal of Section 109 of Cr.P.C. the Executive Magistrate is competent to initiate proceedings to call upon the suspected person, in his local jurisdiction, to execute a bond, with or without sureties, to maintain good behaviour and, if necessary, he has to follow the procedure contemplated under Sections 110 and 111 of Cr.P.C. in respect of a party and it is not a violation. It is for the authorities to make such a request but insisting the petitioner to execute bond for Rs.1,00,000/- and filing charge sheet before the Executive Magistrate is an absurdity on the face of the record and it is an abuse of process of the Court. Hence, the proceedings No.C/84/2018, dated 26.04.2018, passed by the Executive Magistrate and Tahsildar, Vemulawada are liable to be set-aside.

In the result, the Criminal Petition is allowed quashing the proceedings No.C/84/2018, dated 26.04.2018, passed by the Executive Magistrate and Tahsildar, Vemulawada.

As a sequel, miscellaneous petitions, if any pending, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 13.08.2018.
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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CRIMINAL PETITION No. 8735 OF 2018

Date. 20.08.2018

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