

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7806 and 7814 of 2019
and Crl.M.P.Nos.4233, 4234, 4236 and 4237 of 2019

1.Gaja @ Gajapathy ... Petitioner in
Crl.O.P.7806 of 2019

2.Baskar Petitioner in
Crl.O.P.7814 of 2019

Vs.

1. The Deputy Commissioner of Police,
Triplicane District, Chindadripet,
Chennai-600 002.

2. The Sub-Inspector of Police,
F-2, Egmore Police Station,
Egmore, Chennai - 600 008

... Respondents in
both petitions

Prayer in both petitions: Criminal Original Petitions filed
under Section 482 of Cr.P.C., to call for the records pertaining
to the impugned summon issued by the second respondent herein in
S.No.01 of 2019, dated 18.03.2019 and to quash the same.

For Petitioners
in both petitions: Mr.G.Karthikeyan

For Respondents
in both petitions: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

COMMON ORDER

Both the Criminal Original Petitions have been filed to
quash the impugned summon issued by the second respondent herein
in S.No.01 of 2019, dated 18.03.2019.

2. Heard both sides and perused all the documents available
on record.

3. It is seen that on the allegations that the petitioners
had burst the crackers on 29.02.2019 in the junction of Harish
Road, Puthupettai, the second respondent issued notice under

Section 107 of Cr.P.C. to the petitioners to appear before the first respondent with relevant documents. It is relevant to extract the provisions under Section 107 of Cr.P.C., as follows :-

"107. Security for keeping the peace in other cases

(1) 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

(2) Proceeding 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."

Therefore, the second respondent has no power to issue notice under Section 107 of Cr.P.C. If any complaint received, the same can be referred before the Executive Magistrate to take appropriate action as under the provisions under Section 107 of Cr.P.C. as against the counter party.

4. In the case on hand, the second respondent himself issued notice under Section 107 of Cr.P.C., for which, he has no power to conduct enquiry under Section 107 of Cr.P.C. On this ground alone, the notices issued under Section 107 of Cr.P.C., cannot sustained as against the petitioners. However, the second respondent is at liberty to take appropriate action as against the petitioners in the manner known to law.

5. Accordingly, both the Criminal Original Petitions stand allowed and the impugned summons issued by the second respondent herein in S.No.01 of 2019, dated 18.03.2019 are hereby quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm/rts

To

1. The Deputy Commissioner of Police,
Triplicane District, Chindadripet,
Chennai-600 002.
2. The Sub-Inspector of Police,
F-2, Egmore Police Station,
Egmore, Chennai - 600 008

copy to:

The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.G.Karthikeyan, Advocate sr.28496

Crl.O.P.Nos.7806 and 7814 of 2019
and Crl.M.P.Nos.4233, 4234, 4236
& 4237 of 2019

nr 11/06/2019

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