

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 26.04.2019
CORAM
THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.11228 of 2019

Vinayagam @ Vinayaga Moorthy

.. Petitioner/Respondent

Vs

State by it's
Inspector of Police,
T3, Korattur Police Station,
Korattur,
Chennai - 76.

.. Respondents/Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records the impugned summon issued in T3 Korattur Police Station dated 12.04.2019 on the file of the respondent and quash the same.

For Petitioner : Mr.G.Mohana Krishnan
For Respondents : Mr.C.Raghavan
Govt. Advocate (Crl. Side)

O R D E R

This petition has been filed seeking direction to quash the impugned summon issued by T3 Korattur police station dated 12.04.2019 on the file of the respondent under Section 107 Cr.P.C. The respondent has no power to issue and conduct any enquiry, for the proceedings under Section 107 Cr.P.C reads 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.

3. As per the provision, on receipt of the complaint, if any material has to be enquired for the proceedings under Section 107 Cr.P.C., concerned police has to refer the material before the Executive Magistrate to initiate proceedings under Section 107 Cr.P.C. On such reference the Executive Magistrate can only issue notice to the concerned parties to conduct enquiry. After receipt of the complaint the respondent police immediately initiate the proceedings under Section 107 Cr.P.C and issue summons to the petitioner. Therefore, it is nothing but clear abuse of process of law.

4. Accordingly, the impugned summon is quashed and the Criminal Original Petition is allowed. However, the respondent is at liberty to refer the complaint before the concerned Executive Magistrate for the execution of 107 Cr.P.C.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
T3, Korattur Police Station,
Korattur,
Chennai - 76.

2.The Public Prosecutor
High Court of Madras

+1cc to Mr.G.Mohana Krishnan, Advocate sr.40309

Cr1.O.P.No.11228 of 2019

mr(co)
nr 20/06/2019