

HONOURABLE JUSTICE G. SRI DEVI

WRIT PETITION No. 12565 of 2019

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus, declaring the action of the second respondent in registering the F.I.R.No.58 of 2019 dated 24.04.2019 on suo-motto, as illegal, arbitrary, without jurisdiction and violative of principles of natural justice.

2) Heard the learned counsel appearing for the petitioners and the learned Government Pleader for Home.

3) It appears that the second respondent has lodged a complaint and the same was registered as Crime No.58 of 2019 for an offence under Section 107 Cr.P.C. The copy of the First Information Report reveals that the second respondent has not registered the complaint for any cognizable offence. It has been recorded in the First Information Report that previously the petitioners and others were involved in bodily offence case and to maintain the law order, the Sub-Inspector of Police, P.S.Zaffargadh, suo-motto registered the case and recommended the case to the Executive Magistrate, Zaffargadh, for taking action under Section 107 Cr.P.C.

4) Section 107 of Cr.P.C., reads as under:

(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.

5) Section 107 of Cr.P.C. empowers the Executive Magistrate to issue show cause notice as against any group or individual, to show cause why he or they should not be ordered to execute a bond with or without sureties for keeping peace for a period not exceeding one year, based on the information received by the police or other officials.

6) The purpose and object behind registration of crime is stated to be to enable the Executive Magistrate to initiate action under Section 107 of Cr.P.C. Since the First Information Report does not disclose any cognizable offence under any of the provisions of I.P.C., or any other statute, the First Information Report is liable to be quashed. It is not necessary for the second respondent to register the First Information Report in the manner, as it was done by the second respondent.

7) Having regard to the fact that registration of First Information Report is not required for any action to be taken under Section 107 Cr.P.C., and that it is only the information that is required for taking action under Section 107 Cr.P.C., by the Executive Magistrate, this Writ Petition is allowed and all further proceedings in Crime No.58 of 2019 of Zaffargadh Police Station, are hereby quashed.

8) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE G. SRI DEVI

21.08.2019
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