

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Cr1.RC.No.1608 of 2013

P.S.Kandasamy

... Petitioner

Vs.

1. The Sub Division Magistrate &
Revenue Divisional Officer,
Tiruchengode, Namakkal District.

2. The Sub Inspector of Police,
Pallipalayam Police Station,
Pallipalayam, Trichengode Taluk,
Crime No.108/2013.

3. Balasubramani

4. Palanisamy

5. Arunachalam

6. Karthikeyan

7. Shobana @ Tamilselvi

.... Respondents

Prayer: Criminal Revision petition filed under section 397 & 401 of Cr.P.C. to call for the records pertaining to the order passed by the 1st respondent in M.C.No.20/2013(C) dated 20.11.2013 and set aside the same by allowing this criminal revision petition.

For Petitioner : Mr.R.Marudhachalamurthy

For R1 & R2 : Ms.S.Thankira
Government Advocate

For R3 to R7 : No appearance

O R D E R

The criminal revision petition is directed against the order passed by the first respondent in M.C.No.20/2013(C) dated 20.11.2013 passed under section 107 Cr.P.C.

2. Briefly stated, following the disputes between the two rival groups namely, A party and B party, the case had been registered under Section 107 Cr.P.C by the second respondent in Crime No.108 of 2013 dated 03.03.2013 and following the same, notice had been issued by the first respondent calling upon both groups to appear for enquiry. Thereafter, both groups had appeared before the first respondent and contended that the civil suits are pending in various Courts qua the land in dispute. Considering the above said factors, in toto, the first respondent by way of the impugned order, particularly, in order to maintain peace and public tranquillity, directed both parties to furnish bonds with two sureties for Rs.10,000/- (Rupees Ten Thousand only) and further directed them to appear for further enquiry on 10.12.2013. Challenging the same, the revision petitioner belonging to the A party, has preferred the revision. The parties belonging to the B party are cited as the respondents 3 to 7. However, though notice had been sent to R3 to R7, no one had entered appearance either in person or through counsel.

3. Counsel for the revision petitioner contended that the impugned order passed by the first respondent is ex-facie illegal and in this connection, placed reliance upon the decisions reported in CDJ 1983 MHC 152 (K.P.Murugesan and others Vs. State by Inspector of Police, Keeranur and others), 1983 L.W.(Cr1) page 218 (Sadayan and others Vs. Paramasivam and others) and 1999 MLJ (Cr1) page 473 (Muthusamy and others Vs. The Inspector of Police, Mallasamudram Police Station, Mallasamudram, Namakkal District and others).

4. Considering the import of the abovesaid decisions, it is seen that uniform ratio laid down in the series of decisions is that two opposing parties to a dispute cannot be proceeded against under Section 107 of the Code of Criminal Procedure and cannot be proceeded against and bound over in one and the same proceeding and it is further noted that the settled position of law is that the Sub Additional or Executive Magistrate will have no power to club together the members of two hostile groups and pass a joint order under Section 111 Cr.P.C. calling upon both of them to face a joint enquiry before him. In addition to that, as per Section 107 Cr.P.C., the Magistrate at the most can order the person to execute a bond with or without sureties for keeping peace for such period not exceeding one year. Insofar as the present case is concerned, without fixing any time limit, both parties had been directed to execute the bond with two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) by the first respondent in the impugned order. In other words, it is seen that the impugned order directs that the parties shall execute bond till the disposal of the case and accordingly, on the abovesaid grounds, it is found that the impugned order passed by the first respondent stands vitiated.

5. Though the impugned order passed by the first respondent has been challenged only by the revision petitioner representing the A party, inasmuch as the impugned order stands vitiated on the aforesaid grounds, in my considered view, the impugned order has to be struck down on account of the inherent defect in it and accordingly, the impugned order is liable to be set aside as against the members of both parties.

6. In the light of the abovesaid discussions, the impugned order passed by the first respondent dated 20.11.2013 in M.C.No.20/2013(C) is set aside and accordingly, the criminal revision petition is allowed.

Sd/-
Assistant Registrar(ADI (MDU))

//True copy//

Sub Assistant Registrar

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To:

1. The Sub Division Magistrate &
Revenue Divisional Officer,
Tiruchengode, Namakkal District.
2. The Sub Inspector of Police,
Pallipalayam Police Station,
Pallipalayam, Trichengode Taluk,
Crime No.108/2013.
3. The Additional Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Marudhachalamurthy, Advocate SR.No.19001

Cr1.RC.No.1608 of 2013

RR(CO)
GMY(22/05/2020)

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