



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2020

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Cr1.OP.(MD)No.6168 of 2020

and

Cr1.MP.(MD)No.3228 of 2020

1.Sundar

2.Sukumar

3.Jeyaraj

... Petitioners

Vs.

State rep by
The Inspector of Police,
Manapparai Police Station,
Manapparai,
Trichy District.
Crime No.799 of 2016

... Respondent

Prayer: Petition filed under Article 482 of the Criminal Procedure Code to call for the records of the First Information Report in Crime No.799 of 2016, on the file of the respondent Police and quash the same.

For Petitioners : Mr.T.Vadivelan
For Respondent : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed by the petitioners / accused nos.6, 7 & 9 to quash the proceedings pending against them in Crime No.799 of 2016, on the file of the Manapparai Police Station, Trichy.

2. According to the prosecution, the property in S.No.325/2, Sellur Village belongs to one Ramasamy and his brothers. The brothers have partitioned the property among themselves, but, there was some dispute with regard to the partition. In this regard, there was a commotion, where some persons have sustained injuries and the respondent Police have also received complaint and counter complaint in CSR.Nos.327 & 328 of 2016. Since it is a dispute among the family members and because of that, there was a law and order problem, the



respondent Police has registered a case in Crime No.799 of 2016 under Section 107 Cr.P.C., as against all the persons. Aggrieved, the petitioners, who are arrayed as accused nos.6, 7 & 9, have filed the instant criminal original petition.

3. The learned Counsel for the petitioners would submit that the respondent Police, though registered the case in Crime No.799 of 2016 under Section 107 Cr.P.C., has failed to forward the same to the Executive Magistrate and as a result, the case is still pending with the respondent Police. In this regard, he would rely upon the proceedings of the Sub Collector, Srirangam, in Na.Ka.No.A1/880/2019, dated 06.09.2019.

4. Heard Mr.T.Vadivelan, learned Counsel for the petitioners and Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor, who took notice for the respondent.

5. According to the petitioners, there was a dispute among the co-sharers in respect of dividing their shares and digging a bore Well in the subject property. In this regard, there was a commotion and complaint and counter complaint were preferred. But, according to the petitioners, the respondent Police, without conducting proper enquiry, has registered the case under Section 107 Cr.P.C., as against both the parties. Even then, the respondent Police, without forwarding any report to the Executive Magistrate, has simply kept the FIR pending.

6. Section 107(1) Cr.P.C, as it stands now, is as follows:

"When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility 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."

7. If the Police receives information or registers a case that would fall under the ambit of Section 107 Cr.P.C., they ought to submit a report to the Executive Magistrate, who is empowered to proceed further. But, in the case on hand, it seems the respondent Police has failed to submit any report / requisition to the Executive Magistrate, as is evident from the proceedings of the Sub-Collector, Srirangam, in Na.Ka.No.A1/880/2019, dated 06.09.2019. The proceedings of the Sub-Collector, Srirangam, if taken into consideration, warrants strong observations as against the erring officials, since a case registered in the year 2016 under Section 107 Cr.P.C., has been kept pending all along.



8. Be that as it may, as per Section 107 Cr.P.C., the Magistrate may require such person to show cause why he should not be ordered to execute a bond for keeping peace, for such period, "not exceeding one year". The case in Crime No.799 of 2016 was registered on 15.11.2016 and more than three years have already passed since the registration of the case. Therefore, this Court feels that no useful purpose would be served in keeping the FIR pending. In this short ground, this Court, while refraining from making any observations based on the proceedings of the Sub-Collector, Srirangam, is inclined to quash the FIR and accordingly, the proceedings pending against the petitioners in Crime No.799 of 2016 on the file of the Manapparai Police Station stand quashed.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gk

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Inspector of Police,
Manapparai Police Station,
Manapparai,Trichy District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

Cr1.OP.(MD)No.6168 of 2020
12.06.2020

MA (CO)

TR(29.07.2020) 3P 3C