

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Orders Reserved on	10.07.2020
Orders Pronounced on	17.07.2020

CORAM:**THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN****CRL OP(MD)No.13464 of 2018****and****CRL MP(MD)Nos.6059 & 6060 of 2018**

WEB COPY

- 1.P.A.Raviraja
- 2.R.Bathri
- 3.Ramsing Raja
- 4.Sakthi @ Kandu Sakthi
- 5.A.K.D.Ramaraj Raja
- 6.S.Rameshraj
- 7.S.R.Jeyakumar
- 8.Ramasubramanian
- 9.Raghavan
- 10.S.A.Murugesan
- 11.M.Mahendran
- 12.Suresh
- 13.T.Sukumar
- 14.S.Ganesaraja
- 15.G.Rameshraj
- 16.K.Alagendran
- 17.D.Kesavaraja
- 18.S.Maheswaran
- 19.D.Ramkumar
- 20.P.Soori @ Suriyanarayanan

... Petitioners /
Respondents 1 to 20

Vs.

- 1.The Revenue Divisional Officer /
Executive Magistrate
Sattur,
Virudhunagar District.

.... Respondent / Executive
Magistrate

- 2.State Rep.by
The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar

... Respondent /
Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the proceedings in the impugned summons in A1/M.C.30/2018, dated 21.06.2018 issued by the 1st respondent and quash the same.

For Petitioners
For Respondents

: Mr.T.Antony Arul Raj
: Mr.S.Chandrasekar
Additional Public Prosecutor

**ORDER**

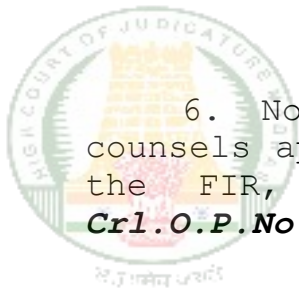
This Criminal Original Petition has been filed seeking the relief to call for the records and quash the impugned summons related to the proceedings in A1/M.C.30/2018, dated 21.06.2008, issued by the first respondent, as illegal.

2. Mr.T.Antony Arul Raj, the learned counsel appearing for the petitioners would submit that the petitioners are hailing from the community of Rajus. There is a temple dedicated to 'Arulmigu Mariamman' at Puthupalayam, Rajapalayam, which is under the Management and denomination of Rajus. Initially, the rights of Rajus were questioned by other community people for which, the dispute has been went up to the Hon'ble Supreme Court in which, the Hon'ble Supreme Court affirmed the rights having by the petitioners with regard to administration of the Temple. The other community people, without adhering the order of the Supreme Court, continuously interfering with the affairs of the Temple administration.

3. The learned counsel would further submit that in the year of 2018, this Court, while passing an order in W.P.(MD)No.8147 of 2018, after considering the order of the Hon'ble Supreme Court, permitted the petitioner viz., 9th respondent for Trustee, to conduct the festival and further direction was also issued to the Deputy Superintendent of Police and to the 2nd respondent herein to provide adequate police protection to the Trust Board to conduct the festival in a peaceful manner. Accordingly, the festival was also conducted without any difficulty.

4. While that being so, for the atrocities committed by unknown persons, the 2nd respondent herein registered a case in Crime No.234 of 2018, under Section 107 Cr.P.C., and forwarded the same to the 1st respondent with a request to initiate necessary proceedings against the petitioners. Based on which, the 1st respondent, without having any subjective satisfaction, without mentioning the requirements, which are necessary for sending summons under Section 107 Cr.P.C., r/w 111 Cr.P.C., issued summons to the petitioners, which is clearly abuse of process of law, thereby quashing the summons sent by the 1st respondent, dated 21.06.2018 is per se illegal.

5. Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the respondents would submit that there is no legal bar for registering the FIR, under Section 107 Cr.P.C., since there is no clear instructions in this regard available with the 2nd respondent, he recorded the information in the form of First Information Report and sent the same to the 2nd respondent, for necessary action. In otherwise, for sending show-cause notice, the subjective satisfaction of the 1st respondent is not necessary.



6. Now, on considering the rival submissions made by the counsels appearing on either side in respect to the registration of the FIR, this Court, while at the time of deciding the **Crl.O.P.No.17684 of 2015**, dated 24.01.2017, held as follows:-

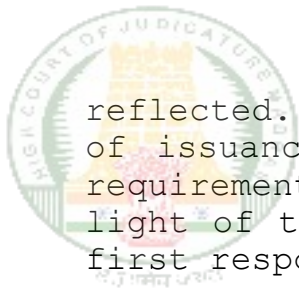
"16. In our opinion, what is laid before the Executive Magistrate in the FIR format is only an information and not a First Information Report stricto sensu as contemplated u/s 154 Cr.P.C. This practice does not fall foul of any rule of positive law. In *Vinay Tyagi vs. Irshad Ali* [(2013) 5 SCC 762], the Supreme Court has stated that the matters which are understood and implemented as a legal practice and are not opposed to the basic rule of law would be good practice and such interpretation would be permissible with the aid of the doctrine of contemporanea expositio. Therefore, we hold that it will be ideal, if the Station House Officer lays information by a report on a foolscap paper, but just because he had used the FIR format for laying the information, the same cannot vitiate the proceedings."

7. Accordingly, since the State Government is not providing any method of sending the report under Section 154 Cr.P.C., sending report in the above referred manner is no way affect the proceedings initiated by the 1st respondent.

8. In respect to the 2nd submission, it is a settled position that in a proceedings under Section 107 Cr.P.C., when there is no material for satisfaction of the Magistrate for proceedings against the person, the inherent powers of this Court has to be invoked for quashing the proceedings. In this regard, in the same Judgment referred above, the Division Bench of this Court had formed an opinion in Para 19, which reads as follows:-

"19. In our view, a show cause order under Section 107 r/w 111 can be subjected to judicial review under Section 482 Cr.P.C. or Article 226 of the Constitution of India, if on the face of it, the order does not satisfy the minimum requirements of Section 111 or that the same has been passed by a person who is not an Executive Magistrate and not otherwise. In other words, if the order does not contain the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required, only then, can the High Court interfere and not otherwise."

9. Therefore, applying the principles set out already by this Court, in the impugned summons sent by the first respondent, the materials, which are necessary under Section 107 Cr.P.C., are not



reflected. Though the writ Court should not interfere at the stage of issuance of show-cause notice, non-mentioning of the mandatory requirements is a ground for vitiating the proceedings. In the light of the above observations, the impugned summons issued by the first respondent is liable to be quashed.

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10. In the result, this Criminal Original Petition is allowed and the proceedings in the impugned summons in A1/M.C.30/2018, dated 21.06.2018 is hereby quashed. Consequently, the connected miscellaneous petitions are allowed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

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 Revenue Divisional Officer /
Executive Magistrate
Sattur,
Virudhunagar District.
- 2.The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL OP(MD)No.13464 of 2018
17.07.2020

KB(23.07.2020) 4P 4C