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CRL.O.P(MD).No.8089 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **21.06.2021**

CORAM

THE HONOURABLE MR.JUSTICE **G.ILANGOVA**

CRL.O.P(MD) .No.8089 of 2021

CRL.M.P(MD) .No.4160 of 2021

1.A.Thangadurai

2.T.Arunachalam

3.V.Murugan

4.V.Thangadurai

5.A.Arunachalam

6.V.Chithiraikani

7.Krishnamoorthy @ Krishnasamy

... Petitioners/3rd Party

Vs.

1.The Executive Magistrate cum
Revenue Divisional Officer,
Sankarankovil,
Tenkasi District.

...1st Respondent

2.The Inspector of Police,
Serndhamaram Police Station,
Tenkasi District,
Crime No.449 of 2019.

...2nd Respondent/Complainant

3.Maharajan

4.Duraiaraj

5.Thirumalaimuthu @ Chelladurai

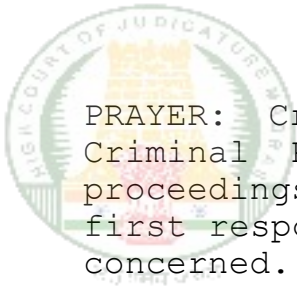
6.Subramanian

7.Amsudurai

8.Paldurai

9.Kumaresan

... Respondents/3 to 9/"A" Party



PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in impugned proceedings Aa3/M.C.02/2020(107) dated 09.11.2020 on the file of the first respondent and quash the same in so far as the petitioners are concerned.

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For Petitioner : Mr.R.J.Karthick

For R1 to R4 : Mr.R.M.Anbunithi
Additional Public Prosecutor

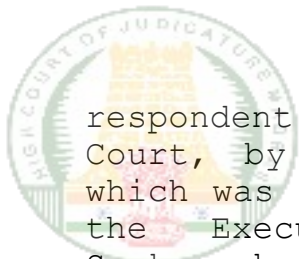
ORDER

This Criminal Original Petition has been filed to call for the records in impugned proceedings Aa3/M.C.02/2020(107) dated 09.11.2020 on the file of the first respondent and quash the same in so far as the petitioners are concerned.

2. The case of the petitioner is that the second respondent Police registered a case in Crime No.449 of 2019 under Section 107 of Cr.P.C. against the petitioners. Based on the First Information Report in Crime No.449 of 2019, the proceedings under Section 107 of Cr.P.C. were initiated by the first respondent in which, the petitioners have been arrayed as "B" party in Aa3/M.C.02/2020(107). "A" and "B" parties mentioned in the proceedings are from the same village and belong to same community. So, the first respondent ought not to have arrayed these persons as "A" and "B" parties. Moreover, before initiating proceedings, the first respondent has not satisfied himself with regard to the requirements to be satisfied under Section 111 of Cr.P.C. So, the proceedings initiated are unlawful. Therefore, the "A" party, who are the respondent Nos.3 to 9 herein, have filed Crl.O.P(MD).No.3108 of 2021 before this Court, challenging the proceedings. By order dated 26.02.2021, this Court quashed the order passed by the Executive Magistrate cum Revenue Divisional Officer, Sankarankovil. After lockdown was lifted, the first respondent is insisting the petitioners to appear before him for enquiry. Hence, the present petition has been filed mainly on the ground that since the proceedings itself came to be quashed by this Court, nothing survives for further proceedings against these petitioners by the first respondent.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

4. As mentioned earlier, the only ground on which the petition came to be filed is that the proceedings initiated by the first



respondent in Aa3/M.C.02/2020(107) are unlawful. Further, this Court, by order dated 26.02.2021 in Crl.O.P(MD).No.3108 of 2021 which was filed by the "A" Party, has set aside the order passed by the Executive Magistrate cum Revenue Divisional Officer, Sankarankovil, based on the judgment rendered by the Hon'ble Division Bench of this Court in the case of **M.Krishnamurthy vs. The Sub Divisional Magistrate cum Revenue Divisional Officer, Krishnagiri and others reported in 2017 (1) CTC 680**. So, when the order passed by the Executive Magistrate cum Revenue Divisional Officer, Sankarankovil, itself has been quashed, nothing survives for further proceedings against these petitioners by the first respondent. It appears that due to some misconception, the first respondent is insisting upon the petitioner to appear for enquiry. The proceedings are one and the same and arraying the parties as "A" and "B" will not have any impact on the outcome of the proceedings. So, the proceedings itself has become extinct now and the question of continuing the proceedings does not arise. Further, it appears that the first respondent is entertaining a misconception of law over this aspect. Accepting this aspect, the learned Additional Public Prosecutor also submitted that appropriate orders may be passed by this Court.

5. In view of the above discussion, this Court is inclined to set aside the order passed by the first respondent herein in Aa3/M.C.02/2020(107) dated 09.11.2020, insofar as the petitioners are concerned. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

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 Executive Magistrate cum
Revenue Divisional Officer,
Sankarankovil,
Tenkasi District.
- 2.The Inspector of Police,
Serndhamaram Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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