



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.15202 of 2021

and

Crl.M.P. (MD)No.8146 of 2021

WEB COPY

1.Thiruppathy

2.Mani Raja

... Petitioners

vs.

1.The Sub Divisional Magistrate Cum
Revenue Divisional Officer,
Devakottai.

2.The Inspector of Police,
Nerkuppai Police Station,
Sivagangai District.

... Respondents/Complainants

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records culminating in M.C.No.47/2021/B1/(3785/2021) dated 24.09.2021 on the file of the first respondent and quash the entire proceedings.

For Petitioners : Mr.S.Venkatasubramaniyan
For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

O R D E R

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents. Ms.Selvakumari, Inspector of Police is also present in person.

2.This Criminal Original Petition has been filed for quashing the proceedings taken under Section 107 r/w. Section 111 Cr.P.C. by the first respondent.

3.The learned Additional Public Prosecutor as well as the Inspector of Police submitted that there is a clash between two groups and as many as three FIRs' namely Crime Nos.13 of 2021, 17 of 2021 and 45 of 2021 have been registered. She submitted that unless the petitioners are directed to execute a bond under Section 107 Cr.P.C., it will be difficult to control the situation. According to her, to maintain public peace in the locality, she submitted a proposal to the first respondent for initiation of security proceedings against the petitioners herein. No doubt, the second respondent had discharged her duty. However, the first



respondent while acting on the second respondent's proposal had not kept in mind the mandate of law. It has been held time and again that while taking action under Section 107 Cr.P.C., there is no concept of A party and B party. As early as in the year 1983, in the decision reported in **1983 L.W. (Crl) 221 (Murugesan and others vs. State by Inspector of Police, Keeranur)** it was held that two opposing parties in a dispute cannot be proceeded against under Section 107 Cr.P.C. in one proceeding. This decision has been followed in several subsequent decisions. One such order dated 07.02.2007 in Crl.O.P.(MD)No.1021 of 2007 (Govindaraj and others vs. The Sub Divisional Magistrate and others) is relied upon the learned counsel appearing for the petitioner.

4.In the case on hand, in the impugned proceedings bearing M.C.No.47/2021/B1/(3785/2021), the petitioners have been categorized as A party. The learned Additional Public Prosecutor produced the case file. In the said case file, proceedings against the B party also bears the same file number M.C.No.47/2021/B1/(3785/2021). Thus, A party as well as B party have been proceeded against under Section 107 Cr.P.C. in one proceeding. The order passed by the first respondent is running counter to the settled decisions of this Court. That apart, it is seen that the first petitioner is figuring as an accused only in one case. The second petitioner has not come under adverse notice of the respondents at all.

5.In view of the foregoing reasons, the impugned proceedings are quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csn/mga

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 Sub Divisional Magistrate Cum
Revenue Divisional Officer,
Devakottai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Inspector of Police,
Nerkuppai Police Station,
Sivagangai District.

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

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RS (07.12.2021) 3P 4C