



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.02.2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.15690 of 2021

and

Crl.MP(MD)No.8455 of 2021

Powersingh

: Petitioner/Petitioner

Vs.

1.The Sub Divisional Magistrate-
-cum-Sub Collector,
Cheramahadevi,
Tirunelveli.

2.The Inspector of Police,
Uvari Police Station,
Tirunelveli District.

3.Arasu

4.Dileep

5.Anthony Selvan

6.Valan

7.Marvel

8.Maneksha

9.Viniston

: Respondents/Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings in summon issued by the respondent vide M.C/42 (Cr.P.C.107)/2021, dated 08.09.2021 and quash the same.

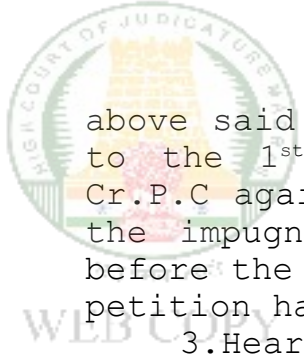
For Petitioner : Mr.K.Rajeshwaran

For R1 and R2 : Mr.RMS.Sethuraman
Additional Public Prosecutor

O R D E R

This petition has been filed by the petitioner seeking quashment of the proceedings in summon issued by the respondent vide M.C/42 (Cr.P.C.107)/2021, dated 08.09.2021

2.The case of the petitioner in brief:- Based on the complaint given by the complainant, a case in Crime No.23 of 2021 was registered against this petitioner and others under section 147 of the Indian Penal Code and section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 stating that they have caused disturbance to the public peace. So on the basis of the



above said FIR, a representation has been made by the 2nd respondent to the 1st respondent to initiate proceedings under section 107 Cr.P.C against this petitioner and others and that was complied and the impugned notice was also issued to the petitioner to appear before the 1st respondent, on 20/09/2021. Challenging the same, this petition has been filed.

3. Heard both sides.

4. Reading of the FIR shows that a case has been registered in Crime No.23 of 2021 against four persons stating that all the above said accused persons, damaged the water pipe line meant for the public in Uvari Panchayat. Now this petitioner has been shown as first person in MC No.42 of 2021.

5. Reading of the impugned notice shows that two groups of people have been shown as 'A' and 'B' party. Action has been initiated under section 107 Cr.P.C stating that both the parties are likely to indulge in activities, which may cause breach of peace. So they were directed to appear before the 1st respondent, on 20/09/2021 to show cause as why action should not be initiated.

6. The proceeding under Section 107 of Cr.P.C. has been initiated in M.C.No.42 of 2021 and notice has also been ordered to the petitioner to appear before the 1st respondent on 20.09.2021 at about 03.00 pm. Except this fact, no other facts are mentioned and not even the requirement of law as set out by this Court more particularly in the case of **M.Krishnamurthy and others Vs. Sub Divisional Magistrate cum Revenue Divisional Officer and others** reported in **MANU/TN/0706/2017** has been complied with. This impugned notice dated 08.09.2021 passed in M.C.No.42 of 2021 also does not satisfy the requirement of law as stated above.

7. As mentioned earlier, arraying the rival groups as A and B party and initiating proceedings is impermissible in law. More over satisfaction of the information has not been stated in the notice. On the sole ground, the impugned notice is liable to be quashed and accordingly, the same stands quashed. However, liberty is granted to the 1st respondent to initiate fresh proceedings by satisfying the requirements of law, if still the breach of peace is apprehended.

8. With the above direction, this criminal original petition stands **allowed**. Consequent, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

**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-Sub Collector,
Cheramahadevi,
Tirunelveli.
- 2.The Inspector of Police,
Uvari Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-4110[F] dated 04/02/2022)
Cr1.OP(MD)No.15690 of 2021
02.02.2022

MGJ(18.02.2022) 3P 5C