



Crl.O.P.(MD) No.15803 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.15803 of 2022

and

Crl.M.P(MD).No.10449 of 2022

1.Arulandhu

2.Kajendiran

3.Sathanatham

4.Arujun @ Arjunan

5.Arputham

6.Ganesan

... Petitioners

Vs

1.The Sub Divisional Magistrate,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.

3.Kulanthaivelu

4.Stephen Raj

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5.Prabhu

6.Nagamuthu

7.Pooventhiran

8.Ramesh

9.Vijayakumar

10.Ramadoss

11.Nagaraj

12.Vairamuthu

13.Govindaraj

14.Mathan Singh

15.Mahesh kanna

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the entire records in relating to the impugned proceedings of the first respondent in M.C.No.61 of 2022 dated 11.08.2022 and to quash the same in so far as the petitioners are concerned.

For Petitioners
For Respondents

: Mr.M.S.Jeyakarthick
: Mr. Meenakshi Sundaram
Additional Public Prosecutor
for R1 and R2



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ORDER

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The petitioners had filed this petition against the summons issued in M.C.No.61 of 2022 by the first respondent, seeking quashment of the same on the ground that the summons issued is not as per law.

2. The learned counsel for the petitioners submitted that while issuing the summons, the Executive Magistrate had not followed the appropriate legal procedure. He would further submit that the learned Magistrate has passed a common order against the members of two parties and both of them were directed to appear before the concerned official to face a joint enquiry. In this regard, he has also produced the order in ***Crl.O.P(MD).No. 18021 of 2015*** in the case of ***C.Selvam and others Vs. The second Class Executive Magistrate Cum-The Tahsildar, Keelakarai Taluk, Ramanathapuram District and others***, wherein the decision of this Court in ***Palani Vs The Inspector of Police*** reported in ***2006(3) CTC 7921***, was relied on. The relevant paragraphs is extracted as under :-

"It has been further held in Thenmalaiyandi Vs.State, 1983 LW (Crl.) 313, wherein it has been held as follows:-



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"The first is that the learned Magistrate has passed a common order against the members of the two parties and called upon them to face a joint enquiry. This is clearly not in accordance with law. It has to be pointed out that under Sub-Section (5) of Section 116, CrI.P.C., a joint enquiry can be held only in respect of members or association of the same group; but not against the members of two rival groups."

3. The learned Additional Public Prosecutor appearing for the respondents 1 and 2, by the way of reply, submitted that to maintain law and problem and considering the peace of society, the Executive Magistrate had issued the summons, based on the report of the concerned police officials. Therefore, he seeks to dismiss this petition as not maintainable.

4. On perusal of the summons issued by the Executive Magistrate, it was found that subjective satisfaction had not been stated anywhere in the summons and based on the report of the concerned police officials only, the Executive Magistrate had issued the summons directing both the parties to appear before the Executive Magistrate.



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5.Considering the above, the impugned proceedings passed by the first respondent in M.C.No.61 of 2022 dated 11.08.2022 is quashed and liberty is granted to the Executive Magistrate to issue fresh summons as per the law and in the light of the reported ruling in ***Thenmalaiyandi Vs.State*** reported in ***1983 (Crl.) 313***.

In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

14.10.2022

Index:Yes/no
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To

- 1.The Sub Divisional Magistrate,
Paramakudi,
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- 2.The Inspector of Police,
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SATHI KUMAR SUKUMARA KURUP, J.

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