



Crl.O.P.No.8474 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.8474 of 2023 and
Crl.M.P.Nos.5376 & 5377 of 2023

T.Sugumar

...Petitioner

Vs.

1.The Sub Divisional Magistrate &
Revenue Divisional Officer, Tiruvallur,
Tiruvallur District,
Tiruvallur.

2.The Inspector of Police,
Tiruvallur Taluk Police Station,
Tiruvallur.

3.D.Udaya Kumar

4.Mahalakshmi @ Vijayalakshmi

...Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records and quash the summon in R.C.No.156/2023/A7 dated 27.03.2023 on the file of the first respondent.

For Petitioner : Mr.K.Murugan

For Respondents : Mr.S.Santhosh (For R1 & R2)

Government Advocate.



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the summon in R.C.No.156/2023/A7 dated 27.03.2023 on the file of the first respondent.

2.The learned counsel for the petitioner submitted that petitioner received a summons under Section 107 Cr.P.C. from the first respondent for an enquiry on 29.03.2023 at 3.00. P.M. Petitioner is shown as “A” party and one Uthayakumar is shown as “B” party. Petitioner was not connected with any crime. Security for keeping the peace can be requisitioned only when a person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility. In the case before hand, the petitioner has no criminal case pending against him and he never ever involved in causing disturbance with the public tranquility or breach of public peace. That apart, he submitted that before proceeding under Section 107 Cr.P.C., a Magistrate has to comply with the directions given



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in Section 111 Cr.P.C. Those directions are not complied with, therefore,
this petition.

3.The learned Government Advocate (Criminal side) submitted that only the summon was issued to the petitioner for appearance. Only after the appearance and enquiry appropriate orders would be passed.

4.Considered the rival submissions and perused the records.

5.It is seen from the impugned summons, petitioner was directed to appear for enquiry at 03.30.p.m. on 29.03.2023 to give evidence and to produce document in an enquiry under Section 107 Cr.P.C. Section 107 Cr.P.C. reads as follows:-

107. Security for keeping the peace in other cases.

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace



or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond,¹ with or without sureties,] for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

6.This Section makes it clear that only when a person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, he can be asked to execute the bond with or without



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sureties for keeping the peace.

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7.Before passing orders under Section 107 Cr.P.C. the Magistrate shall have to make the order in writing, setting forth the substance of the information received, the amount of the bond to be executed, term for which it is to be in force and the number, character and class of sureties required. It is a mandatory procedure to be followed under Section 111 Cr.P.C. It appears that no such order in writing was passed by the first respondent before sending summons under Section 107 Cr.P.C. It is claimed by the petitioner that petitioner is no way involved in any crime. In such circumstances, this Court is of the view that the summons under Section 107 Cr.P.C., was issued against the petitioner without any basis and therefore, liable to be quashed. Therefore,, summon in R.C.No.156/2023/A7 dated 27.03.2023 on the file of the first respondent, is quashed.

8.Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.



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Index: Yes/No

Speaking/Non speaking order

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G.CHANDRASEKHARAN, J.

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To:-

- 1.The Sub Divisional Magistrate &
Revenue Divisional Officer, Tiruvallur,
Tiruvallur District,
Tiruvallur.
- 2.The Inspector of Police,
Tiruvallur Taluk Police Station,
Tiruvallur.
- 3.The Public Prosecutor
High Court of Madras.

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