



*Crl OP No.15381 of 2021*

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 06.06.2023**

**CORAM :**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**Criminal Original Petition No.15381 of 2021**  
**and Crl.M.P.Nos.8414 & 8416 of 2021**

1. Govindhan
  2. Gubendhiran
  3. Gurumoorthi
  4. Hari Krishnan
  5. Gopal
  6. Rajendran
- ... Petitioners/Petitioners

**Versus**

1. The Sub – Divisional Executive Magistrate cum  
Revenue Divisional Officer,  
Kesavalu Nagar, V.O.C.Nagar,  
Kallakurichi District, Tamil Nadu 606 202.
2. The Inspector of Police,  
Thirupalapanthal Police Station,  
Kallakurichi District.
3. Elumalai
4. Kannan



Crl OP No.15381 of 2021

5. Paalraj

6. Paandu

7. Balakrishnan

... Respondents/Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code seeking to call for the records in notice dated 22.07.2021 in A3/2202/2021, on the file of the first respondent, and set aside the same as illegal.

For Petitioners : Mr.A.Thiagarajan, Senior Counsel  
for M/s. A.Vinupradha

For Respondent : Mr.A. Damodaran  
Additional Public Prosecutor, for R1 & R2

### **ORDER**

The petitioner seeks to quash the notice issued under Section 111 read with Section 107 of the Code of Criminal Procedure. The petitioners have been shown as A parties and the rival parties have been shown as B parties in the said notice.



WEB COPY



Crl OP No.15381 of 2021

2. This Court has repeatedly held that there cannot be any joint enquiry for rival parties in the proceedings under Section 107 of the Code of Criminal Procedure. In the recent judgment in Criminal OP No.3275 of 2021 dated 15.03.2023, this Court had observed as follows:

*“ 5. This Court finds that in the impugned notice, the petitioners who are shown as A-party and the hostile persons are shown as B-party have been jointly called for an enquiry. Section 116 Sub Clause 5 of the Code of Criminal Procedure which reads as follows:*

***Section 116 (5):-*** *Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.*

*The above provision provides for joint enquiry only in respect of persons who have been associated together. However, in the instant case admittedly A and B parties*



cannot be said to be associated together. The issue is covered by the judgments of this Court in:

1. **Chinnathambi Gounder @ Rama Gounder and others v. State by Inspector of Police, Natham Dindigul Quide-Milleth District**, reported in 1994 1 MLJ(Crl) 110;
2. **K.P.Murugesan and others v. State by Inspector of Police and others**, reported in 1983 (2) Crime (HC) 712;
3. **Sekar and others v. R.Padmalosai and others**, reported in 1987 (6) L.W. Crl 262; and

6. This Court has held that two opposing parties of hostile groups cannot be bound over in one and the same proceedings. The latest judgment of this Court is **Shahul Hameed v. The Sub Divisional Magistrate made in Crl R.C.(MD) No.607 of 2017 dated 31.07.2017**. The relevant portion of the order is extracted hereunder:

“4. Now, it is settled proposition of law that proceedings in Section 107 and 111 Cr.P.C. 'A' party and 'B' party should not be



Crl OP No.15381 of 2021

*clubbed together.””*

WEB COPY

3. In view of the same, since the petitioners and the rival parties have been called for joint enquiry, the impugned notice is liable to be set aside and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

06.06.2023

jv

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The The Sub – Divisional Executive Magistrate cum  
Revenue Divisional Officer,  
Kesavalu Nagar, V.O.C.Nagar,  
Kallakurichi District, Tamil Nadu 606 202.
2. The Inspector of Police,  
Thirupalapanthal Police Station,  
Kallakurichi District.
3. The Public Prosecutor  
Madras High Court.



WEB COPY



*Crl OP No.15381 of 2021*

**SUNDER MOHAN, J.**

jv

Criminal Original Petition No.15381 of 2021  
and Crl.M.P.Nos.8414 & 8416 of 2021

06.06.2023