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Crl.O.P.No.14123 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.14123 of 2021

and

Crl.M.P.No.7721 of 2021

- 1.Taha Naveen
- 2.Abbas
- 3.Abdul Salam
- 4.Siddique
- 5.Dheen Bhai
- 6.Peer Mohamed

... Petitioners

Vs.

1. The Executive Magistrate-Cum-
Deputy Commissioner of Police,
Flower Bazar District,
Chennai.
2. Mr.Sebastian
The Inspector of Police, (Law and Order)
B-1, North Beach Police Station,
Chennai - 600001.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to the proceedings in Na.Ka.No.59/NI.Che.Na and Ka.Thu.Aa/Che.Pe.Poo.Maa/ 2021 dated 24.07.2021 on the file of the 1st respondent and quash the same and thus render justice.



For Petitioners : M/s.M.Mohamed Ryaz

For Respondent : Mr.S.Balaji, Govt. Advocate (Crl.Side)

ORDER

The petition is to quash the proceeding under Section 107 Cr.P.C. initiated by the 1st respondent herein.

2. The learned counsel for the petitioner would submit that the 1st respondent being the Deputy Commissioner of Police is not empowered to initiate proceedings under Sections 107 to 110 Cr.P.C. as he cannot exercise the powers of Executive Magistrate in view of the judgement of Division Bench of this Court in ***P.Satish Vs. State*** dated 13.03.2023. The relevant observation is extracted herein under:-

“(a) GO.Ms.No.659. dated 12.09.2013 and GO.Ms.No.181, dated 20.02.2014 vesting Deputy Commissioner of Police with the powers of an Executing Magistrate for the purpose of Section 107 to 110 Cr.P.C., suffer from manifest arbitrariness and violates the principle of separation of powers under the Constitution.”



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3. In view of the above observations, the impugned proceedings initiated by the 1st respondent cannot be sustained.

4. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

27.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

1. The Executive Magistrate-Cum-
Deputy Commissioner of Police,
Flower Bazar District,
Chennai.
2. Mr. Sebastian
The Inspector of Police, (Law and Order)
B-1, North Beach Police Station,
Chennai - 600001.



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SUNDER MOHAN. J,

shr

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