



Crl OP No.20316 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**Criminal Original Petition No.20316 of 2021
and
Crl.M.P.Nos.11060 and 11061 of 2021**

1.Rajesh

2.Arunkumar

3.Kumaravadivel

4.Saravanan

5.Satheeswaran

6.Gopinath

7.Chandrasekar

8.Thangaraj

9.Kumar

...Petitioners/"A" Party

Versus

1.Sub – Divisional Magistrate – cum – Sub – Collector,
Dharapuram,
Thiruppur District.

2.The Inspector of Police,
Vellakovil Police Station,
Kangeyam Taluk,
Tiruppur District.

...Respondents



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PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records pertaining to impugned show cause notice issued by the 1st respondent herein in M.C.06/2021/E dated 01.10.2021 and quash the same.

For Petitioners : M/s.E.K.Karthik Raja

For Respondents : Mr. S.Balaji
Government Advocate (Crl.Side)
for R1 and R2.

ORDER

The petition is to quash the show cause notice issued under Section 111 Cr.P.C by the 1st respondent in M.C.06/2021/E dated 01.10.2021.

2. The learned counsel for the petitioners would submit that in the notice issued to the petitioners; that the petitioners are shown as 'A' party and the rival party is shown as 'B' party; that this Court had held that the rival parties could not be combined and a joint enquiry cannot be conducted and hence, he prayed for quashing of the proceedings filed against the petitioners.



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3. Heard, Mr.S.Balaji, the learned Government Advocate

(Crl.Side) appearing for the respondents.

4. This Court finds that the petitioners and the rival parties have been called for joint enquiry in the impugned notice. This Court had held that such a joint enquiry is contrary to the provisions of the Criminal Procedure Code. This Court in ***P.S.Kandasamy Vs. The Sub Division Magistrate & Revenue Divisional Officer and Ors., in Crl.R.C. No. 1608 of 2013 dated 03.03.2020***, reiterating the settled position of law held as follows;

“4. Considering the import of the abovesaid decisions, it is seen that uniform ratio laid down in the series of decisions is that two opposing parties to a dispute cannot be proceeded against under Section 107 of the Code of Criminal Procedure and cannot be proceeded against and bound over in one and the same proceeding and it is further noted that the settled position of law is that the Sub Additional or Executive Magistrate will have no power to club together the members of two hostile groups and pass a joint order under Section 111 Cr.P.C.”



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5. In view of the settled position of law, the impugned notice is quashed, and this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition are closed.

13.06.2023

dk

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

- 1.The Sub – Divisional Magistrate – cum – Sub – Collector,
Dharapuram,
Thiruppur District.
- 2.The Inspector of Police,
Vellakovil Police Station,
Kangeyam Taluk,
Tiruppur District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J
dk

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