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Crl.O.P.No.22962 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22962 of 2023

and

Crl.M.P.No.16103 of 2023

Paramanantham

... Petitioner

Vs.

1. The State rep by,
Executive Magistrate cum Sub Collector,
Tiruppur District.

2. The Inspector of Police,
North Police Station,
Tiruppur, Tiruppur District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for records in Na.Ka.No.2712/2023/A1 dated 01.08.2023 on the file of Executive Magistrate Cum Sub Collector, Tiruppur District to quash the same.

For Petitioner : Mr. S.Suresh

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



ORDER

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Petition is filed to quash the notice issued by the Sub Collector, Tiruppur calling upon the petitioner to participate in the enquiry initiated under Section 107 of Cr.P.C.

2. The learned counsel for the petitioner submitted that, tenor of Section 107 of Cr.P.C., is in respect of any person who is likely to cause breach of peace and disturbance to the public. Time and again, this Court has held that, there cannot be proceedings initiated against Section 107 of Cr.P.C in respect of groups like A Group and B Group and it should be person-centric.

3. The learned counsel for the petitioner further submitted that, impugned notice issued by the Sub Collector states that, there is disturbance and quarrel between two groups regarding administration of Church in Thottipalayam Village, Ramaya Colony. Therefore, dispute which relates to land as defined under section 145(2) of Cr.P.C., includes buildings, markets, fisheries etc., Therefore, if at all there is any breach, proceedings ought to



have been initiated under Section 147 of Cr.P.C. and not under Section 107 of Cr.P.C.

4. This Court after giving its anxious consideration on the above submission and the judgement of this Court rendered in **Crl.R.C.No.1608 of 2023** in **P.S.Kandasamy Vs. The Sub Division Magistrate & Revenue Divisional Officer, Tiruchengode, Namakkal District and others dated 03.03.2020** and hearing the submission of the learned Government Advocate (Crl. Side) passes the following order:

5. Chapter XIII of the Criminal Procedure Code is regard to power of Executive Magistrate to obtain security of bond for keeping peace and good behaviour. As far as Section 107 is concerned, on receipt of information that any person is likely to commit breach of peace or disturb the public tranquillity or to do any wrongful act which may probably occasion a breach of peace to the public tranquillity and in its opinion that there is sufficient grounds for proceeding, he may require such person to show cause why you should not order to execute a bond with or without security for keeping the peace for such period, but not exceeding one year. Present impugned notice



issued under this Section since the Executive Magistrate on information been satisfied that there is likelihood of breach of peace or disturbance to the public tranquillity. Though, he has classified the persons from whom he may require to obtain bond for security has two groups (like A Group and B Group), members of both the group been named in person. Therefore, first objection to the notice is that, the notice cannot be issued in common not sustainable since the notice is in the name of individuals and they are classified under two groups.

6. Regarding other contention that, Section 107 of Cr.P.C., will not get attracted, at the most, section 147 of Cr.P.C., will only attract also has no legs to stand because the impugned notice indicates that information received about two groups at loggerhead which will lead to breach of public peace. The notice has been issued calling the petitioners and others to appear for enquiry on 07.08.2023. Section 107 of Cr.P.C is wider in its application compared to Section 147 of Cr.P.C. The executive magistrate while excising the power under Section 147 of Cr.P.C., must be satisfied that, there is a dispute which may cause breach of peace regarding right of users of any land or water. The use of land either be easement or on title or harvesting the



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crop or other product of land and rent of such property. The case in hand, it is with regard to administration of church and the apprehension is regarding breach of peace or disturbance to the public tranquillity. In so far as this case is concerned, it is also to be noted that, parties are called for enquiry and no final orders passed. In such case, it is premature to comment upon the action taken by the Sub Collector based on the power conferred on him. It is needless to say that the Executive Magistrate will confine exercise of power only with regard to maintaining public peace and tranquillity and will not well upon the title or right of the rival parties. Therefore, this Court is not inclined to quash the proceedings in Na.Ka.No.2712/2023/A1 dated 01.08.2023 as against the petitioner.

7. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

06.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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Dr.G.JAYACHANDRAN,J.

Sma

To

1. The State rep by,
Executive Magistrate cum Sub Collector,
Tiruppur District.
2. The Inspector of Police,
North Police Station,
Tiruppur, Tiruppur District.
3. The Public Prosecutor,
Madras High Court.

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