



Crl.O.P.No.24525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24525 of 2023

and

Crl.M.P.Nos.17052 & 17053 of 2023

1.G.Chinnusamy
2.Gokul
3.Sathish @ Thambiran
4.Prabhu
5.Vagai Thamilarasan
6.Chandrasekar

... Petitioners

Vs.

1.The Sub-Divisional Magistrate-cum-
Revenue Divisional Officer,
Erode,
Erode District.

2.The Inspector of Police,
Chennimalai Police Station,
Erode District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned order issued by the 1st respondent herein in Na.Ka.5263/2023/A2, dated 09.10.2023 and quash the same.



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For Petitioners : Mr.G.Karthikeyan, Senior Counsel
M/s.A.Jagadeeswari

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

Challenging the notice issued by the Sub-Divisional Magistrate-cum-Revenue Divisional Officer under Section 107 of Cr.P.C., the present Criminal Original Petition is filed by the members of 'B' party on the ground that the 1st respondent RDO has not properly followed the procedure laid under Section 111 Cr.P.C., while directing the petitioners to appear for enquiry without issuing proper show cause notice. Further the impugned notice challenged as bereft of details of specific charge against the petitioners and also it is contended that despite clubbing 'A' and 'B' party in one and the same proceedings though been reprimanded and deprecated by this Court in several judgments, in impugned notice the 1st respondent has clubbed both 'A' and 'B' party.

2. When the matter came up for hearing, on considering the reasons for which the parties were summoned, this Court directed the petitioners to appear before the RDO and participate in the enquiry.



However, it appears that the RDO vide proceeding dated 14.11.2023 has proceeded to call upon them to execute the bond for a sum of Rs.25,000/- and to give undertaking to keep peace for a period of one year. The show cause notice under Section 113 Cr.P.C., caused to both the parties for appearance on 21.11.2023.

3. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that while the members of 'A' party were present, the petitioners who belong to 'B' party did not turn up for enquiry. However in the summon itself they have made endorsement that in view of the pendency of the Writ Petition before the High Court, they will participate in the enquiry after disposal of the Writ Petition as per the orders to be passed.

4. When this Court enquired with the learned Government Advocate (Crl.Side) whether 'A' party has given bond as mentioned in the show cause notice dated 14.11.2023, he answered in negative.

5. The dispute between two parties leading disturbance to the public peace and tranquility is due to the unauthorized congregation in a residential house for worship every week which according to the members of



the 'B' party causing disturbance to the public.

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6. The case in Crime No.236 of 2023 for the offence under Sections 447, 294B, 323, 354 and 506(i) IPC dated 18.09.2023 been registered. This complaint is given by Arjun, a member of 'A' party alleging that members of 'B' party are disturbing the worship by congregation of people from out side on Sundays. The members of the 'B' party had objected such congregation in residential place converting it into a place of worship unauthorizedly while returning back after worship allegations of molestation and wrongful restraint is made in the complaint.

7. From this complaint, it is clear that Arjun is an out sider of the said village who has put up a structure and carrying on religious activities, causing disturbance to the others and inviting trouble. Therefore, the police has referred the matter to RDO for enquiry under Section 107 Cr.P.C., same is followed by issuance of notice under Section 113 Cr.P.C., to obtain bond from the disturbing parties to maintain peace.

8. The 1st respondent herein if is of the opinion that any bond



should be obtained from both the disputing parties, the party which is causing nuisance and the party which attempt to abate the nuisance In other words unless the religious activities in unauthorized place causing nuisance to the neighboring residence restrained, objection from the other side cannot be avoided.

9. Taking this into view, the RDO should act upon and proceed with enquiry after causing fresh notice to the parties for enquiry. Since this Court finds the proceedings initiated by 1st respondent is not in tune with the spirit of Section 107 Cr.P.C, same is set aside.

10. With the above observation, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petitions are closed.

22.11.2023

Index : Yes/No

Neutral Citation : Yes/No

rpl

Dr.G.JAYACHANDRAN,J.



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To

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1.The Sub-Divisional Magistrate-cum-
Revenue Divisional Officer,
Erode,
Erode District.

2.The Inspector of Police,
Chennimalai Police Station,
Erode District.

3.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.

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