



CRL OP(MD). No.4045 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2023

Pronounced on : 25.07.2023

CORAM:

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD).No.4045 of 2023

in

CrI.M.P.(MD)No.3619 of 2023

G.Reji

... Petitioner

Vs

1.The Executive Magistrate cum
Sub Collector,
Padmanabhapuram,
Kanyakumari District.

2.The State represented by
The Inspector of Police,
Marthandam police,
Kanyakumari District.

...Respondents

Prayer: Petition filed under Section 482 of Criminal Procedure Code to call for the records in A2/M.C.No.70 of 2022 dated 07.02.2023 and quash the same as illegal, on the file of first respondent.

For Petitioner : Mr.N.S.Ramakrishna Dass

For Respondents : Mr.S.Manikandan
Government Advocate (CrI.side)



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ORDER

This Criminal Original Petition has been filed to call for the records in A2/M.C.No.70 of 2022 dated 07.02.2023 and quash the same as illegal, on the file of first respondent.

2.The facts in brief is that the Inspector of Police, Marthandam police station, sent a communication / information to the first respondent herein stating that one Vijayakumar is running a finance company who has arrayed as 'A' party and another one Regi who is also running a brick kiln, has arrayed as 'B' party. Over a property issue, continuous enmity exists between them. Because of the said enmity, several cases have been registered against each party. Because of the criminal case, there is an apprehension that the petitioner may involve in the activities which will cause breach of peace in the public place, action was requested to be initiated. On the basis of the said information, proceedings were initiated under Section 107 and 117 of Cr.P.C., against this petitioner in M.C.No. 70 of 2022. At the conclusion of the enquiry, finding that frequent criminal case have been registered against both the parties, in view of



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continuous commission of the criminal offence, they were directed to execute bond for Rs.50,000/- each with two sureties for like sum for one year. Challenging the said order, this petition has been filed. In the enquiry, both have appeared and filed their objections in respective cases.

3. Reading of the order does not indicate any proper procedure. It is stated that the enquiry was conducted on 4 days namely 17.11.2022, 06.12.2022, 13.01.2023 and 27.01.2023. No discussion has been made with regard to the documents produced and the evidence adduced by the Inspector of Police and by the parties. Subjective satisfaction or finding of fact, has not been recorded by the respondent herein. A perusal of the records shows that request was made by the B party to let in evidence to put forth their case, whether such permission was granted or not, is not available in the order. As mentioned above no discussion has been made with regard to the oral evidence produced and the documents which have been submitted. Without all these, a cryptic order has been passed which does not satisfy the requirement of law.



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4. On that account, the above said proceedings in M.C.No.70 of 2022 is ordered to be set aside and accordingly set aside and quashed. However the respondent is at liberty to initiate fresh proceedings, if any apprehension of breach of peace still survives, by following the proper procedure. A reasoned order must be passed.

5. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition stands closed.

25.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.1.The Executive Magistrate cum Sub Collector,
Padmanabhapuram, Kanyakumari District.
- 2.The Inspector of Police, Marthandam police,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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G.ILANGOVAN,J

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Pre-Delivery Order made in

CRL OP(MD).No.4045 of 2023

in

CrI.M.P.(MD)No.3619 of 2023

Date: 25.07.2023