



CRL OP(MD). No.10022 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.06.2023

Pronounced on : 27.07.2023

CORAM:

The Hon`ble Mr.Justice **G.ILANGO VAN**

CRL OP(MD).No.10022 of 2023

in

Crl.M.P.(MD)Nos. 7990 and 7991 of 2023

Murugan

... Petitioner

Vs

1.The Second Class Executive Magistrate / Tahsildar,
Kariyapatti Taluk,
Virudhunagar District.

2.State represented by
The Sub Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
L.I.R.No.15 of 2023.

...Respondents

Prayer: Petition filed under Section 482 of Criminal Procedure Code to call for the records relating to the proceedings of L.I.R.No.15/2023 on the file of the second Class Executive Magistrate / Tahsildar, Kariyapatti Taluk and quash the same as against the petitioner herein.

For Petitioner : Mr.G.Mariappan

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



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ORDER

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This Criminal Original Petition has been filed to call for the records relating to the proceedings of L.I.R.No.15/2023 on the file of the second Class Executive Magistrate / Tahsildar, Kariyapatti Taluk and quash the same as against the petitioner herein.

2. The facts in brief is that the Inspector of Police, Aviyur police station, sent a communication to the respondent herein stating that this petitioner is frequently creating law and order issue and apprehending breach of peace because of his continuous behaviour. Summon was issue to the petitioner to show cause as to why he has not been directed to execute bond for Rs.25,000/- along with two sureties each for like sum was issued to the petitioner. Challenging the above said summon dated 01.06.2023, this petition has been filed on the ground that no proper procedure was followed and substance of the information has not been stated in the summons, not even subjective satisfaction of the respondent was recorded.

3. The learned counsel for the petitioner would submit that the settled decision of procedure to be followed in such matters has set out in



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the judgment in *Syed Ibrahim and others Vs. The Deputy Commissioner of Police Law and order cum Executive Magistrate* dated 23.12.2021, was not properly followed while initiating action and issuing the summons. No separate order is also passed by the respondent.

4. A reading of the summon would shows that the petitioner may involved in activities causing breach of peace, so he would ordered to show cause as to why he should not be directed to execute bond. Section 109 of Cr.P.C., reads as under:

"109. Security for good behaviour from suspected persons.- When an Executive Magistrate receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the magistrate thinks fit. "

5. The main ingredient of the above said section is that the information that furnished by the Inspector of Police must make out a



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prima facie ground to believe that the petitioner is either hiding or taking precaution to commit cognizable offence. Subjective satisfaction must be recorded by the respondent on the basis of the information furnished. Apart from that above observation, appropriate procedure was also not followed.

6. On that ground this petition and the summon are liable to be quashed and accordingly quashed, however liberty is granted to the respondent herein to initiate further action, if still the above said cause of action exists.

7. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions stand closed.

27.07.2023

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

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To

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- 1.The Second Class Executive Magistrate / Tahsildar,
Kariyapatti Taluk, Virudhunagar District.
- 2.The Sub Inspector of Police, Kariyapatti Police Station,
Virudhunagar District. L.I.R.No.15 of 2023.
- 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.10022 of 2023

in

CrI.M.P.(MD)Nos. 7990 and 7991 of 2023

Date: 27.07.2023