



Crl.O.P.(MD) No.15243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **09.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P.(MD)No.15243 of 2023
and Crl.M.P.(MD).No.12078 of 2023

R.Azhagar

...Petitioner

Vs.

1.The Second Class Executive Magistrate
Cum Revenue Tahsildar,
Tiruchuzhi Taluk,
Virudhunagar District.

2.The Inspector of Police,
Prohibition Enforcement Wing,
Sathur,
Virudhunagar District.

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the impugned notice issued by the 1st Respondent dated 04.07.2023 and quash the same as illegal and arbitrary.

For Petitioner :Mr.R.Sevugaraja

For Respondents :Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)



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ORDER

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2.A batch of Criminal Original Petitions in Crl.O.P.(MD).No.4769 of 2022 and batch, are disposed of by this Court touching the matters involved in this issue. Section 107 Cr.P.C. reads under:

“107. Security for keeping the peace in other cases

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he 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 keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceeding under this section may be taken before any Executive Magistrate when either the



place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction”

3.A more comprehensive discussion has been made by the Co-ordinate Bench of this Court in Crl.R.C.(MD).No.78 of 2020, in the case of ***Devi Vs. Executive Magistrate cum Deputy Commissioner of Police and another***, touching upon the history of the evolution of the Section. And the persons who were facing the above said proceedings, which we are not very much concerned here. That case was entirely with regard to the vesting of executive powers with police officials. But, now it has been settled that the proceedings under Section 107 Cr.P.C. is a judicial proceedings. As observed in the the case of ***Syed Ibrahim and others Vs. Deputy Commissioner of Police Law and Order cum Executive Magistrate, Madurai City***, the due process must be followed. So as stated above, notice must accompany a copy of the order made by the Executive Magistrate.



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3. With this background let us see the present case. In this case, the summon was issued, on the basis of the informations given by the second respondent, apprehending breach of peace in that locality, to show cause as to why the petitioner should not be directed to execute a bond with two sureties for keeping good behaviour for a period of one year for Rs.25,000/-, with a direction to appear before the first respondent on a particular date. Except the above said contents, no other materials have been enclosed to satisfy the requirement of law.

4. As mentioned above, it does not satisfy the requirement of law. On that ground, this petition is liable to be allowed. But, however, liberty is granted to the first respondent to initiate fresh action, if sufficient information is received from the second respondent, if any necessity arises.

5. With the above said liberty, this criminal original petition is allowed and the proceedings initiated by the first respondent in this



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petition is hereby quashed. Consequently, connected miscellaneous
petition is closed.

09.10.2023

Internet : Yes / No

Index : Yes / No

TM

To

1.The Second Class Executive Magistrate
Cum Revenue Tahsildar,
Tiruchuzhi Taluk,
Virudhunagar District.

2.The Inspector of Police,
Prohibition Enforcement Wing,
Sathur,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

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