



Crl.O.P.(MD)No.20129 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.07.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.20129 of 2022

and

Crl.M.P.(MD) Nos.13924 and 13925 of 2022

1. M.Sangaran

2. P.Murugaraj

3. K.Anthoyraj

4. A.Anandraj

... Petitioners

Vs.

1. The Sub Divisional Magistrate
and Revenue Divisional Officer,
Tenkasi, Tenkasi District.

2. The Inspector of Police,
Chinnakovilankulam Police Station,
Tenkasi District. (Crime No.120/2022).

3. P.Kottursamy

4. D.Kottursamy

5. A.Ganthiraja

6. A.Kottursamy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the 1st Respondent,



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Sub Divisional Magistrate cum Revenue Divisional Officer, Tenkasi, vide his proceedings in Na.Ka.No.Aa2/334/M.C.B.09/145/2022 dated 19.09.2022, and quash the same.

For Petitioner : Mr.D.Rajaboopathy

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed questioning the proceedings dated 19.09.2022 issued by the first respondent/ Sub Divisional Magistrate cum Revenue Divisional Officer.

2. It is the case of the petitioners that the first respondent/Sub Divisional Magistrate cum Revenue Divisional Officer has initiated proceedings under Section 145 of Cr.P.C. basing on the information given by the second respondent police against the petitioners thereby on the strength of proceedings of the Revenue Divisional Officer dated 19.09.2022 in Na.Ka.No.Aa2/334/M.C.B.09/145/2022, a case has been registered in Crime No.120 of 2022 for the offence punishable under Section 145 of IPC. Challenging the same, the present petition is filed wherein the petitioners herein are shown as 'A' party and the respondents 3 to 6 are shown as 'B' party.



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3. Section 154 of Cr.P.C. runs as under:-

"154. Information in cognizable cases.—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf."

4. The summons issued by the respondent police are in respect of FIR issued by the police in Crime No.120 of 2022. FIR can only be issued if cognizable offence is committed. According to police, the petitioner and other group have committed breach of peace and Section 145 of Cr.P.C. proceedings have been initiated. As cognizable offence has not been committed FIR cannot be issued. Accordingly the FIR in Crime No.120 of 2022 and subsequent proceedings of summons issued on account of issuance of FIR are also required to be quashed.



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5. This Court in Crl.O.P.(MD) No.19859 of 2022, has held that issuing of FIR under Section 145 of Cr.P.C., is irregular.

6. Considering the above, this Criminal Original Petition is allowed and the proceedings in Na.Ka.No.Aa2/334/M.C.B.09/145/2022 dated 19.09.2022 is quashed. Consequently, connected miscellaneous petitions are closed.

27.07.2023

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



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To

1. The Sub Divisional Magistrate
and Revenue Divisional Officer,
Tenkasi, Tenkasi District.
2. The Inspector of Police,
Chinnakovilankulam Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

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