



Crl.O.P.(MD) No.19189 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **30.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.19189 of 2023
and Crl.M.P.(MD).Nos.15153 & 15155 of 2023

Periyamariappan

...Petitioner

Vs.

1.The Sub Inspector of Police,
Perunali Police Station,
Ramanathapuram District.

2.The 2nd Class Executive Magistrate/Tahsildar,
Kadaladi, Kadaladi Taluk,
Ramanathapuram District.

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of
Cr.P.C, to call for the records of the proceedings in M.C.No.13/2023 dt.
4/10/2023 passed by R2 and set aside the same.

For Petitioner :Mr.S.Muniyandi

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



Crl.O.P.(MD) No.19189 of 2023

ORDER

WEB COPY This Criminal Original Petition has been filed to quash the proceedings of impugned order in M.C.No.13/2023 dt.4/10/2023 on the file of the 1st respondent.

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



Crl.O.P.(MD) No.19189 of 2023

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.



Crl.O.P.(MD) No.19189 of 2023

WEB COPY

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 first respondent, apprehending breach of peace in that locality, to show cause as to why the petitioner should not be directed to execute a bond for keeping good behaviour for Rs.50,000/- with a direction to appear before the second 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 second respondent to initiate fresh action, if sufficient information is received from the first respondent, if any necessity arises.

5. With the above said liberty, this criminal original petition is allowed and the proceedings initiated by the second respondent in this petition is hereby quashed. Consequently, connected miscellaneous



Crl.O.P.(MD) No.19189 of 2023

petitions are closed.

WEB COPY

30.10.2023

Internet : Yes / No

Index : Yes / No

TM

To

- 1.The Sub Inspector of Police,
Perunali Police Station,
Ramanathapuram District.
- 2.The 2nd Class Executive Magistrate/Tahsildar,
Kadaladi, Kadaladi Taluk,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.19189 of 2023

G.ILANGOVAN. J.

TM

CrI.O.P.(MD)No.19189 of 2023

30.10.2023