



Crl.O.P.(MD) No.21644 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **01.12.2023**

CORAM:

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

Crl.O.P.(MD)No.21644 of 2023
and C.M.P.(MD).No.16907 of 2023

Hanifa @ Tenkasi Hanifa

... Petitioner

Vs.

1.The Executive Magistrate cum Revenue Divisional Officer,
O/o. Kokkirakulam RDO Office,
Tirunelveli.

2.State represented by the Inspector of Police,
O/o. Melapalayam Police Station,
Tirunelveli.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside and quash the impugned notice in AA5/M.C. 66/2023(107) dt. 02.11.2023 on the file of the respondent No.1.

For Petitioner :Mr.S.M.A.Jinnah

For Respondents :Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings of impugned order in AA5/M.C.66/2023(107) dt. 02.11.2023



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on the file of the 1st respondent.

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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



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*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.

4.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



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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 a period of one year for Rs.50,000/- 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.

5.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.

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

01.12.2023



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Internet : Yes / No

Index : Yes / No

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To

- 1.The Executive Magistrate cum Revenue Divisional Officer,
O/o. Kokkirakulam RDO Office,
Tirunelveli.
- 2.The Inspector of Police,
O/o. Melapalayam Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA. J.

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