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Crl.OP.No.19308 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.19308 of 2024

and

Crl.MP.No.11349 of 2024

P.Juliuscesar

... Petitioner

Vs.

1. Sub Divisional Executive
Magistrate-Cum-The Revenue
Divisional Officer,
Madurantakam Taluk,
Kanchipuram District.

2. State Rep by
The Inspector of Police,
Melmaruvathur Police Station,
Kanchipuram District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS to call for the entire records connected with in Na.Ka.No.1940/2024 dated Nil 06.2024, on the file of the 1st respondent herein and quash the same.

For Petitioner : Ms.R.Gobika

For Respondents : Mr.K.M.D.Muhila
Government Advocate (Crl. Side)

ORDER



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The petitioner herein is an accused in Cr.No.146 of 2024 for the offence under Sections 341, 294b , 323, 324,506(ii) of IPC.

2. The content of the complaint is that the petitioner has demanded Rs.1,00,000/- from the Village President for permitting the village Panchayat to lay cement road in a particular street. Subsequently, there had been clash between two groups and therefore the respondent police has thought fit that the Executive Magistrate should look into the issue and pass appropriate order to prevent breach of public order and peace. Accordingly, summons has been issued to the parties to participate in the enquiry on 28.06.2024 to decide whether any action under Section 107 of Cr.P.C to be taken.

3. The petitioner herein is before this Court challenging the show cause notice issued by the Executive Magistrate on the ground that the Executive Magistrate ought to have proceeded under Section 111 of Cr.P.C before initiating any action under Section 107 of Cr.P.C. The tenor of the summons which is under challenge indicates that it is only a showcause notice to ascertain whether there is any prima facie material to



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proceed under Chapter VIII, particularly, under Section 107 Cr.P.C.

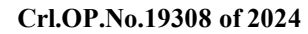
Therefore, both the parties were called in that summons, only when final order is passed, Court mandates that it must be passed separately against each party and common order cannot be passed. In this case, it is only a show cause notice issued to the parties to participate in the enquiry to decide whether any action at all to be taken under Section 107 of Cr.P.C. Hence, the parties shall appear before the enquiry, if any fresh summons issued by the Executive Magistrate, since the date of enquiry been expired, the petitioner shall participate in the enquiry.

4. In view of the above, this Court finds no illegality or perversity error to interfere, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

12.08.2024

Vv

To



- Dr.G.JAYACHANDRAN,J.**



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