



Crl.O.P.(MD)No.1231 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD)No.1231 of 2024

and

C.M.P.(MD)Nos.839 & 840 of 2024

Palani @ MSK.Palani

... Petitioner

Vs.

1. The Tahsildar and
Taluk Executive Magistrate,
Avudaiyarkovil Taluk,
Pudukottai District.
2. The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to the proceedings in M.C.No.21/2023/A6 on the file of the first Respondent herein dated 14.12.2023 and quash the same as illegal.

For Petitioner : Mr.T.Leninkumar

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)



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ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition seeking to quash the summons issued by the Executive Magistrate, Pudukkottai District, in M.C.No.21/2023/A6 on the file of the first Respondent.

2.It is the contention of the learned Counsel for the Petitioner that earlier also, similar summons were quashed by this Court in Crl.O.P.(MD)No.11975 of 2023. At that time, liberty was not granted to the Respondents for the issuance of fresh proceedings. While so, the first Respondent based on the report of the second Respondent had issued M.C.No.21/2023/A6 dated 14.12.2023, seeking to execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) along with two sureties in the like amount to the satisfaction of the first Respondent for maintaining peace and good behaviour for a period of one year.

3.The learned Counsel for the Petitioner relied on the reported ruling of the Hon'ble High Court in the case of ***M.Krishnamurthy and others Vs.***

Sub Divisional Magistrate cum Revenue Divisional Officer and another

reported in ***(2017) 1 MLJ (Crl) 257***. As per the above ruling, to initiate



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proceedings devolves on the Executive Magistrate when he receives information "that the person is likely to commit a breach of peace", the report of the Police should contain the incident of breach of peace to occur, there should be an information before the Executive Magistrate based on which he is of the opinion that there is sufficient ground for proceedings. In this case, on perusal of the notice/summons issued by the Executive Magistrate/first Respondent, it is found that the proceedings had been initiated based on the number of cases pending on the file of the second Respondent and not based on the fresh information by the second Respondent that there is a likely hood of breach of peace in the limits of the second Respondent.

4.The learned Government Advocate vehemently objects to the arguments of the learned Counsel for the Petitioner stating that earlier Criminal Original Petition was allowed on the basis that there was sufficient materials. This time, the summons had been issued giving out the details of the cases. Therefore, it is the submission of the learned Government Advocate (Criminal side) that this petition has no merits and to be dismissed.



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5.Considering the submission of the learned Counsel for the Petitioner and the learned Government Advocate (Criminal side), when the Hon'ble Division Bench had clearly given out the guidelines reported in **(2017) MLJ (Crl) 257**, the Executive Magistrate has to form an opinion based on the report that there is likely hood to disturb peace and public tranquility, such information is not available in the show cause notice in M.C.No.21/2023/A6 dated 14.12.2023. Therefore, merely demanding the Petitioner to execute a bond for Rs.50,000/- (Rupees Fifty Thousand only)for two sureties will not be sufficient and the pendency of five criminal cases will not be sufficient. There is no report from the Avudaiyarkovil Police Station regarding information that there is sufficient ground to believe that there is a likely hood of disturbance of peace and public tranquility within the local limits of the Avudaiyarkovil Police Station by the conduct of the Petitioner herein, without which the Show Cause Notice was issued by the first Respondent in M.C.No.21/23/A6 dated 14.12.2023 is found to be not proper as per the decision of the Hon'ble Division Bench of this Court, which had given guidelines for the Executive Magistrate before ever issuing show cause notice.

6.In view of the above, this Criminal Original Petition is allowed.



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Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Tahsildar and
Taluk Executive Magistrate,
Avudaiyarkovil Taluk,
Pudukottai District.
2. The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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