



W.P.(MD)No.9183 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.9183 of 2024

and

W.M.P.(MD)No.8359 of 2024

Bismi @ Bismillah Khan

... Petitioner

Vs.

1.The Revenue Divisional Officer cum
Sub-Divisional Magistrate,
Madurai.

2.The Inspector of Police,
B-1, Vilakkuthoon (L & O) Police Station,
In LIR No.43 of 2024,
Madurai City.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued to the petitioner vide proceedings in Na.Ka.No.2419/2024/C dated 02.04.2024 on the file of the first respondent and quash the same as illegal.

For Petitioner

: Mr.J.William Chiristopher

For Respondents

: Mr.T.Senthilkumar
Additional Public Prosecutor



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ORDER

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The order impugned in this petition is only a show cause notice as to why a direction should not be issued to the petitioner to execute a bond for maintaining the peace for a period of one year.

2. The learned counsel for the petitioner submits that four cases have been referred in the impugned notice, out of which, two cases have already been quashed by this Court. However, without ascertaining the same, the impugned notice has been issued in a mechanical manner. He further submits that by the impugned order, the petitioner was directed to give his explanation as to why an order under Section 110 of Cr.P.C. should not be passed as against him. Without furnishing any copies and materials warranting the notice under Section 110 of Cr.P.C., the respondents are proceeding with enquiry.

3. This Court considered the submissions of the learned counsel for the petitioner and also perused the materials placed on record.

4. On the report of the second respondent police, the first respondent has issued the notice calling upon the petitioner to explain as to why an order under Section 110 of Cr.P.C., should not be passed as against him. In the



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impugned notice, the first respondent has referred that the petitioner has involved in the following four cases:

- (i) Crime No.472 of 2016 on the file of the Nagamalaipudukotai Police Station, for the offence under Sections 188, 341, 353 and 429 of IPC and Section 11(1)(i) of CTA Act;
- (ii) Crime No.595 of 2018 on the file of the Vilakuthoon Police Station for the offences under sections 294(b), 323 and 506(ii) of IPC;
- (iii) Crime No.1050 of 2020 on the file of the Vilakuthoon Police Station for the offences under Section 269, 294(b), 341 and 353 of IPC; and
- (iv) Crime No.94 of 2012 on the file of the Vilakuthoon Police Station for the offences under Sections 147, 148, 294(b), 323, 324, 341 and 506(2) of IPC.

By referring the above cases, the first respondent has come to an adverse inference that the petitioner may cause disturbance to the public peace and tranquility.

5. According to the petitioner, Crime Nos.472 of 2016 and 94 of 2012 were already quashed by this Court in CrI.O.P.(MD)Nos.14328 of 2019 and 14813 of 2013 respectively.



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6. However, apart from these two cases, which were already quashed by this Court, the petitioner appears to have involved in two other cases in the same Police Station.

7. In view of the above, this writ petition is disposed of with a direction to the first respondent/Revenue Divisional Officer cum Sub Divisional Magistrate to furnish the materials against the petitioner warranting the notice under Section 110 of Cr.P.C. The petitioner is at liberty to furnish a copy of the orders passed in CrI.O.P.(MD)Nos.14328 of 2019 and 14813 of 2013. Thereafter, the first respondent shall take a call on the necessity of passing an order under Section 110 of Cr.P.C and take a decision, after providing an opportunity of hearing to the petitioner, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

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

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Sub-Divisional Magistrate,
Madurai.



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2.The Inspector of Police,
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Madurai City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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Order made in
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16.04.2024