

(2015) 05 KL CK 0119

In the High Court Of Kerala

Case No : Criminal M.C. Nos. 2836 of 3321/2013, 2976, 2979, 2989, 2992 and 2996 of 2015

purpose, they have to be called upon to enter on a bond to keep good behaviour for a particular stipulated period. It was held that the authority therein has not mentioned as to how far the alleged crime cases mentioned in the order is relevant for the purpose of considering the question as to whether the counter petitioners have to be called upon to enter on bonds to prevent breach of public tranquility and peace in the locality. That the very purpose of initiating proceedings under Sec. 107 of the Code of Criminal Procedure is to prevent breach of public tranquility and peace expected to be committed by the counter petitioners at a particular place and at the particular time or period of time and it is intended to prevent that they are called upon to enter on a bond for a good behaviour for a particular stipulated period so that they can be prevented from participating in any act causing anticipated breach of public tranquility or breach of peace in a particular locality or a particular time. That the impugned orders therein will go to show that there is nothing in that order even to infer, the reason for the Sub Divisional Magistrate to come to such a conclusion that the counter petitioners must be asked to enter into such a bond for the purpose mentioned in Sec.107 of the Cr.P.C. That the authority has simply extracted the case numbers of the crime, in which the counter petitioners were made accused. That it is well settled that merely because the counter petitioner was made an accused in a case, by itself is not sufficient to initiate proceedings against him under Sec. 107 of the Code and the purpose behind the initiation of the proceedings is that there is apprehension in the mind of the authorities that the particular person or set of persons involved in certain activities, are likely to create breach of peace and disrupt

under Secs.107 and 111 of the Code and that the petitioners are entitled to the relief claimed in those petitions.

3. It is also pertinent to note that the impugned order considered by this Court in the reported decision in Santhosh" case supra reads as follows:

"Preliminary Order U/Sec 111 Cr.P.C.

WHEREAS it appears to me on the basis of the credible information received from the S.I of Police, Payandai Police Station that counter petitioner residing within the local limits of my jurisdiction is likely to create breach of peace and disturb public tranquility within the local limits of my jurisdiction and as I consider it is necessary that he should be called upon to show cause why he should not be proceeded against u/s 107 of Cr.P.C. They are hereby required to appear before me on 31.7.13 at 10.30 am at my court at Thalassery to show cause why hey/he should not be ordered to execute a bond of Rs. 25,000/-(Rupees twenty five thousand only

in CrI.M.C. No. 3321/2013 and the impugned order dated 19.6.2013 in CrI.M.C. No. 2836/2013 has expired long back. In this view of the matter, all these petitions stand disposed of in accordance with the relief granted by this Court in the reported decision in Santhosh" case supra. Accordingly, the impugned orders in these cases are quashed. However, it is made clear that this will not be a bar for the Sub Divisional Magistrate to initiate fresh proceedings against the petitioners, if the authority concerned is satisfied that situation prevails so as to initiate proceedings against them under Sec. 107 of the Code of Criminal Procedure after strict compliance with all the procedures and guidelines in the order in Santhosh" case supra and in the order dated 19.12.2014 in CrI.M.C. No. 7259/2014 and connected cases and in accordance with law.

With these observations and directions, the Criminal Miscellaneous Cases stand finally disposed of.