

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI-

FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI

CRIMINAL PETITION NO: 8399 OF 2023



Between:

1. Kuruva Thubalamchina Urukundu, S/o. Thurnmala Eranna, Aged 48 years, R/o. 2-228,K.Thimmapuram, Yemmiganur Mandal, Adoni, Kurnool District.
2. Kuruva Thubalam Venkateswarlu, S/o. Thummala Eranna, Aged 42 years, R/o. 2-229,K.Thimmapuram, Yemmiganur Mandal, Adoni, Kurnool District.

AND

1. The State Of Andhra Pradesh, (The Station House Officer, Yemmiganur, Adoni, Kurnool District) Rep. by Public Prosecutor High Court of A.P. Amaravathi.

...RESPONDENT

2. The Sub Divisional Magistrate, Adoni, Kurnool District.

...RESPONDENT/DEFACTO COMPLAINT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the MC No. 18 of 2023 on the file of the Court of the Sub Divisional Magistrate, Adoni, Kurnool District against the Petitioners.

I.A. NO: 2 OF 2023

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings of the order dated 10.10.2023 passed in MC No. 18 of 2023 on the file of the Court of the Sub Divisional Magistrate, Adoni, Kurnool District.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri MARELLA RADHA, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and None Appeared for the Respondent No. 2

The Court made the following:

HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Criminal Petition No.8399 OF 2023

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C to quash the proceeding in MC.No.18 of 2023 passed by the Sub-Divisional Magistrate, Adoni, Kurnool District.

2. The petitioners contended that the impugned proceeding under Section 107, Cr.P.C were passed on 10.10.2023 seeking attendance of the petitioners on 26.01.2023 to show cause why they should not be required to enter into a bond for Rs.1,00,000/- and also to give security with a bond of surety for Rs.1,00,000/- that they would keep peace for a term of one year, without following due procedure of law by issuing notice under Section 113, Cr.P.C.

3. The learned Assistant Public Prosecutor submitted that the police have issued notice under Section 111, Cr.P.C to the petitioners and therefore the petition is liable to be dismissed.

4. In reply, the learned counsel for the petitioners submitted that after filing of this petition questioning the impugned proceeding for not following Section 111, Cr.P.C, a 2nd notice under Section 111, Cr.P.C was served on the petitioners, however, both are dated 10.10.2023 and asked the petitioners to attend on 26.10.2023.

5. A perusal of the impugned order shows its title as: "Summons on Information of probable breach of peace (sec.113)", it was

numbered as MC.No.18 of 2023 followed by "In represented by SI of Police Yemmiganur Rural PS U/S 107 of Cr.P.C",

6. The proceeding under Section 111 Cr.P.C is headed title as follows:

"IN THE COURT OF SUB DIVISIONAL MAGISTRATE ADONI
MC.NO.18/2023
SUMMONS TO INFORMATION OF A PROBABLE BREACH OF PEACE
U/S 107 CRPC OF YEMMIGANUR RURAL PS"

In this proceeding, reasons for calling the petitioners for showing cause are also mentioned.

6. On perusal of both proceedings, it is clear that the impugned proceeding is improper for want of not following Section 111, Cr.P.C. The proceeding under Section 111, Cr.P.C dated 10.10.2023 which are admittedly received by the petitioners are not under challenge in this petition and also not shown to be defective in any form and the same is unaffected by this order.

7. In the result, the petition is allowed and the impugned proceeding dated 10.10.2023 styled as "Summons on Information of probable breach of peace (sec.113) in MC.No.18 of 2023 "In represented by SI of Police Yemmiganur Rural PS U/S 107 of Cr.P.C" are quashed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

**SD/- SHAIK MOHD. RAFI
ASSISTANT REGISTRAR**

//TRUE COPY//

To,

SECTION OFFICER

1. The Court of the Sub Divisional Magistrate, Adoni, Kumool District.
2. The Station House Officer, Yemmiganur Rural Police Station Kumool District.
3. One CC to SRI. MARELLA RADHA, Advocate [OPUC]
4. Two CC's to The Public Prosecutor, High Court of Andhra Pradesh at Amaravathi [OUT]
5. Three CD Copies
PRK

P. Gauthami

HIGH COURT

DATED:29/12/2023

ORDER

CRLP.No.8399 of 2023

ALLOWING THE CRIMINAL PETITION



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