

**COURT OF DISTRICT MAGISTRATE
PUDUCHERRY
DATED 20.10.2016
M.C. No.146/2016**

SHO, Katterikuppam

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Petitioner

Vs.

**Vetri @ Vetrivelan,
S/o Balakrishnan,
No.5, Ambethkar Street,
Suthukeny,
Puducherry.**

.....

Counter Petitioner.

This petition along with case sheet filed by SHO, represented by G. Sandhosh, S.I., Investigation Officer, Katterikuppam P.S, praying to pass orders U/S 144 Cr.P.C against Mr. Vetri @ Vetrivelan to prevent imminent danger to human lives and properties and disturbance to the public tranquillity and order.

2. Counter petitioner Mr. Vetri @ Vetrivelan, is a resident of No.5, Ambethkar Street, Suthukeny Colony, Puducherry.

3. The facts which led up to the petition are briefly as follows: The case referred by the Katterikuppam PS that the counter petitioner involving in activities which may cause breach of peace and disturb the public tranquillity. He is a notorious rowdy element and is being watched by the police unobtrusively. He had formed a gang of rowdies and involved in various offences against public tranquillity, public & private property, offences affecting decency & morals and offences affecting human body. In this connection, the petitioner had stated that the following FIR's were lodged against the counter petitioner

(a) Cr No. 13/2012 u/s 147,148,341,294,324,506(ii) IPC r/w 149 IPC of Katterikuppam police station, Puducherry

(b) Cr No. 06/2013 U/s 147,148,324,427,506(ii) IPC r/w 149 IPC and 3 of PP DP Act of Katterikuppam Police Station, Puducherry

(c) Cr No. 08/2013 U/s 147,148,324,427,506(ii) IPC r/w 149 IPC @ 341,324,506(ii) IPC r/w 34 IPC of Katterikuppam Police Station, Puducherry

Further, it had also been stated that the following preventive action were taken against the Counter Petitioner

- (i) I.R.No.14/12 U/S 107 Cr.P.C. dated.18.03.2013 Bind Over the CP
- (ii) I.R.No.04/13 U/S 107 Cr.P.C. dated.17.03.2013 Bind Over the CP
- (iii) I.R.No.11/2013 U/S 144 Cr.P.C. dated.23.10.2013 Bind Over the CP
- (iv) I.R.No.09/14 U/S 107 Cr.P.C. dated.27.02.2014 Bind Over the CP
- (v) I.R.No.17/14 U/S 107 Cr.P.C. dated.14.11.2014 Bind Over the CP
- (vi) I.R.No.01/15 U/S 107 Cr.P.C. dated.16.02.2015 Bind Over the CP
- (vii) I.R.No.07/16 U/S 144 Cr.P.C. dated.16.04.2016 Bind Over the CP

4. The Counter Petitioner was served a Notice through the petitioner on 04.10.2016 with the direction to appear before the undersigned on 07.10.2016 at 4 PM. Whereas, neither the Counter Petitioner nor his pleader appeared on the said date and time. Hence, the hearing was posted on 11.10.2016 for final hearing. The Counter Petitioner or his pleader failed to turn up for the final hearing also.

5. I have heard the petitioner and carefully gone through all the available records in file placed by the petitioner.

In the Police information report / petition, it is stated that Thiru. Vetri @ Vetrivelan's activity was in such a manner that they may cause breach of peace and create a problem of law and order public tranquillity. He is involved in crimes such as rioting, assaulting with deadly weapons, unlawful assembling with common objective of committing crime, trespass, criminal intimidation, causing damage to public property, obstructions and annoyance, etc and disturb public peace and order.

6. Further, in the I.R., it is stated that the counter petitioner was bound over on several occasions under sections 107 and 144 of Cr.P.C.

7. The provision laid down under Section 144 in The Code Of Criminal Procedure, 1973 are as follows:

Section 144. Power to issue order in urgent cases of nuisance of apprehended danger.

(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent,

obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, of an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof: Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor- in- office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub- section (4).

(7) Where an application under sub- section (5) or sub- section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

8. Beside the original provision of code, on various occasions various guidelines have been already laid down by Hon'ble High Court and Hon'ble Supreme Court vide its judgements. As per the ruling of the Hon'ble High court of Chennai judicature in CrI R.C. No. 677 of 2015 dated 13.07.2015 between the Laloo @ Lemon Anandaraj Vs. District Magistrate, Puducherry in which it was laid down by the Hon'ble HC that the District Magistrate should serve the notice and follow the principles of the natural justice before passing any orders.

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9. Therefore this Court, taking into consideration of views of Hon'ble High Court and Hon'ble Supreme Court, the proceedings started after service of notice to the counter petitioner on 04.10.2016 with direction to appear before this Court either by person or by learned Counsel. But the counter petitioner did not appear. Hence the matter was posted for final hearing on 11.10.2016. Whereas, the counter petitioner did not turn up for final hearing or any day between the last hearing and final hearing.

Hence, I DR SATYENDRA SINGH DURSAWAT I.A.S, do hereby, in the capacity of District Magistrate, Puducherry after servicing the notice as mentioned under section 134 Cr.P.C and after giving due opportunities of hearing to the counter petitioner, in exercise of powers conferred under the section 144(2) of the Code of Criminal Procedure, pass this ex-parte order and prohibit you, the counter petitioner Thiru Vetri @ Vetrivelan S/o Balakrishnan, residing at No 5, Ambethkar Street, Suthukeny Colony, Puducherry under section 144 of Cr.P.C from entering into the Puducherry District for a period of two months from the date of this Order or till any further orders are passed by the Competent Authority revoking this prohibition as per law, whichever is earlier except when you are summoned to attend the cases in any of the Courts in Puducherry. However, you may represent against this order before the undersigned by post or by counsel.

At Puducherry, Dated on this the 20th day of October, 2016 pronounced in the open court.


(DR SATYENDRA SINGH DURSAWAT, I.A.S)
DISTRICT MAGISTRATE

Copy to:-

1. SSP L&O
2. The Sub-Divisional Magistrate (North), Puducherry.
3. The Sub-Divisional Magistrate (South), Villianur.
4. The Joint Secretary to Govt. (Home), Puducherry.
5. The Supdt. of Police (North)/(South)/(East)/(West), Puducherry.
6. The Station House Officer, Katterikuppam Police Station, Puducherry
7. Thiru. Vetri @ Vetrivelan S/o Balakrishnan, No 05, Ambethkar Street, Suthukeny Colony, Puducherry under Sec 144 Cr.P.C. on the ground of prevention of danger to human life and properties and disturbance of public tranquillity and Law & Order.