

Submitted on 07/11/16

**COURT OF DISTRICT MAGISTRATE
PUDUCHERRY
DATED 31.10.2016
M.C. No.154/2016**

**SHO, Mangalam
Police Station**

.....

Petitioner

Vs.

**Ezhumalai
S/o Selvaraj,
No. 18, Earikarai street,
Korkadu,
Puducherry.**

.....

Counter Petitioner.

This petition along with case sheet filed by SHO, represented by A. Govindarajan, S.I., Investigation Officer, Mangalam P.S, praying to pass orders U/S 144 Cr.P.C against Thiru. Ezhumalai to prevent imminent danger to human lives and properties and disturbance to the public tranquillity and order.

2. Counter petitioner Thiru. Ezhumalai S/o Selvaraj, is a resident of No.18, Earikarai Street, Korkadu, Puducherry.

3. The facts which led up to the petition are briefly as follows: The case referred by the Station House Officer, Mangalam Police Station was that the counter petitioner is a history sheet holder and is being watched by the police unobtrusively. He is a dangerous person habitually involved in body offences. He has formed a gang of rowdies and involved in crimes such as murder, explosive, hurt, extortion, intimidation and disturbance to the public tranquillity and order. He is a dangerous criminal and has been using deadly weapons such as country made bomb and knife in committing the crime. In this connection, the petitioner had stated that the following FIR's were lodged against the counter petitioner

(a) Cr.No. 61/2012 U/s 147,148,341,302,324 IPC & 3 of Explosive Substance Act 1908 r/w 149 IPC of Mangalam PS.

(b) Cr.No. 96/2013 U/s 25 (1-B) of Arms Act of Mangalam PS, Puducherry.

(c) Cr.No. 24/2014 U/s 107 Cr.P.C. of Mangalam Police Station

(d) Cr.No.112/2014 U/s 341,324,506(ii) IPC of Mangalam PS

(e) Cr.No.146/2015 U/s 304A IPC @ 302 IPC r/w 34 IPC of Thirunavalur PS.

(f) Cr.No.15/2015 U/s 144 (i),(ii),(iii) Cr.P.C of Mangalam PS.



4. In addition, it has also been submitted that the counter petitioner was arrested in many cases but he manages to get himself released on bail by exhorting all sorts of pressures. He uses money and muscle power to evade the process of law. If he is allowed to reside inside Puducherry region, it is apprehended that he would continue to indulge in serious offences like murder, hurt, damages to public and private properties, assault, obstruction and annoyance, etc. and also threaten the witnesses in the case pending against him. The counter petitioner is in dire need of money to maintain his group of rowdy elements and to meet expenses in connection with the trial in the pending criminal cases against him. He is hatching plans to threaten business people and extort money from them. Hence the petitioner praying for action under section 144 of Cr.P.C. against the counter petitioner.

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

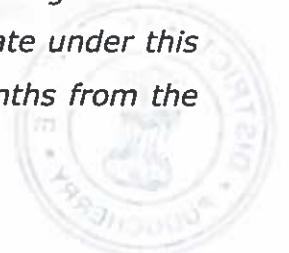
Section 144. Power to issue order in urgent cases of nuisance of apprehended danger.

(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, or 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.

6. 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.

7. 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.

8. A notice dated.10.10.2016 was served both to the petitioner and counter petitioner to appear before this court on 14.10.2016 at 4.00 PM. For the petitioner's side the notice was received by Thiru.S.Chandirasegaran (Police Constable, Mangalam Police Station). It was instructed to serve the notice to the counter petitioner through the Station House Officer, Mangalam Police Station. On 14.10.2016, the Petitioner was present for the hearing. The counter petitioner along with his counsel, thiru. A. Sivacoumar appeared for the hearing and submitted the memo of appearance.

9. I have heard both the sides. The records submitted by the petitioner were carefully gone through. Upon hearing both the parties and on perusing the records filed by the petitioner, it has been made to appear to me that the



counter petitioner has trivial and insignificant respect to the judiciary and rule of law and I am convinced of his involvements in various criminal cases such as offences against public tranquillity, offences against public & private property, offences affecting decency & morals and offences affecting human body and that he has become a perennial source of threat to the community, public peace and order.

Hence, I DR. SATYENDRA SINGH DURSAWAT I.A.S, do hereby, in the capacity of District Magistrate, Puducherry in exercise of powers conferred under the section 144 of the Code of Criminal Procedure, pass this order and prohibit the counter petitioner, Thiru. Ezhumalai S/o Selvaraj, residing at No.18, Earkarai Street, Korkadu, Puducherry 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 the counter petitioner is summoned to attend the cases in any of the Courts in Puducherry. However, the Counter petitioner may represent against this order before the undersigned by post or by counsel.

At Puducherry, Dated on this the 31st day of October, 2016 pronounced in the open court.



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

Copy to:-

1. Senior Superintendent of Police (Law & Order), Puducherry.
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, Mangalam Police Station, Puducherry.
7. Thiru. Ezhumalai S/o Selvaraj, residing at No.18, Earkarai Street, Korkadu 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.

