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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.85 of 2015
and
M.P.No.1 of 2015

Brilly Daniel Prabu

... Petitioner

Versus

1. The State
rep.by Inspector of Police
Ulundurpettai Police Station
Ulundurpettai Taluk
Villupuram District.

2. The Sub Divisional Executive
Magistrate cum Revenue
Divisional Officer
Thirukovilur Taluk
Villupuram District.

... Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C to call for the records and set aside the summons proceeding in M.C.No.6519 of 2014 dated 13.11.2014 by the Sub-Divisional Executive Magistrate cum Revenue Divisional Officer, Thirukoilur.

For Petitioner : M/s.Tamizh Law Firm
and
Mr.C.D.Johnson
Amicus Curiae

For Respondents : Mr.R.Prathap Kumar
Government Advocate
(Criminal side)for R1

ORDER

When the matter was listed on 08.04.2015, there was no representation for the petitioner. Hence, this Court appointed Mr.C.D.Johnson, learned counsel as Amicus Curiae to argue on behalf of the petitioner.

2. Today, when the matter is taken up for hearing, the learned counsel on record appeared. Mr.C.D.Johnson, learned counsel, who was appointed as Amicus Curiae also assisted the Court.



3. The petitioner has come forward with this Criminal Revision Case as against the summons issued by the Sub Divisional Executive Magistrate cum Revenue Divisional Officer, Thirukoilur dated 13.11.2014 in M.C.No.6519 of 2014.

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4. The only point raised by the petitioner is that the summons issued by the Authority for Section 107 enquiry is not in consonance with Section 107 of the Criminal Procedure Code. According to the petitioner, if the authority feels it necessary, first he should direct the concerned party to execute a bond and that it cannot straightaway call for an enquiry as contemplated under Section 145(1) of Cr.P.C.

5. Learned counsel for the petitioner would further submit that the summons is not only meant for conducting an enquiry, as it is stated that if the petitioner did not appear on the specified date, P.T.Warrant will be issued. The authority, by extending its jurisdiction has issued such a summons. Accordingly, he would pray that the summons issued to the petitioner to that extent has to be set aside.

5. Learned counsel for the petitioner would also state that the petitioner is a Government servant and is working as a Teacher and that he will not create any law and order problem. It is further submitted that the petitioner is ready and willing to participate in the enquiry, if any, to be conducted at a later stage.

6. The Inspector of Police, Ulundurpettai Circle, Villupuram District has also filed a status report in this regard.

7. In the status report, it is stated that there arose a dispute between the A party and B party [led by the petitioner herein] regarding the worship timings in the church premises at Arcot Lutheran Church, Virudhachalam Road. However, the petitioner herein, who appeared on behalf of the B party gave a written submission stating that they will not interfere in any activities and that they will not create any law and order problem. In view of the above undertaking given by the B party, the CSR was closed. It is further stated in the status report that apprehending danger between the two parties in future, as they are having many problems in administration, celebrating festivals, worship time etc., 107 proceedings were initiated, so that they would execute the necessary bond. Further the B party has specifically undertaken that they will not create any law and order problem.

8. It is further stated in the status report filed by the Inspector of Police that based on the findings given by the Sub Inspector of Police, a case in Crime No.334 of 2014 was registered under Section 107 Cr.P.C., for maintaining public peace and tranquility and also for getting bond for their good behaviour.

9. I have heard both sides and perused the materials placed on record.



10. Though in the status report, the first respondent has separately stated that Section 107 proceedings have been initiated against the petitioner only to get bond for the good behaviour based on the undertaking given by the B party led by the petitioner herein, in the impugned summons issued, it is stated that the same has been issued for conducting an enquiry and further indicating that if the petitioner fails to appear before the Enquiry Officer, P.T.Warrant will be issued, by exceeding its jurisdictional limits.

11. In view of the same, the impugned summons, to that extent has to be set aside and accordingly, it is set aside. However, it is made clear that the authority shall issue a fresh notice calling upon the petitioner to execute the necessary bond, which the petitioner shall also duly comply with. The undertaking given by the petitioner that he will execute the necessary bond is recorded.

12. With the above observation, this Criminal Revision case is partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Sub Divisional Executive
Magistrate cum Revenue
Divisional Officer
Thirukovilur Taluk
Villupuram District.
2. The Inspector of Police
Ulundurpettai Police Station
Ulundurpettai Taluk
Villupuram District.
3. The Public Prosecutor, High Court, Madras.

1 cc to Public Prosecutor, Sr.19547

CrI Rev Case No.85 of 2015

VGI (CO)
Eu 06.05.2015