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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.02.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

CRL.O.P.(MD)No.2309 of 2015

C.Stephen,
The Secretary,
United Christian Youth Council,
Near New Police Station,
Arumanai - 629 151,
Kanyakumari District.

.. Petitioner

.. Vs ..

1.The Director General of Police,
Police Head Quarters,
Chennai - 600 004.

2.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.

.. Respondents

Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, praying to direct the respondents to register the case on the complaint of the petitioner, dated 24.01.2015 & 27.01.2015 and to investigate and file a final report within a stipulated time as fixed by this Honourable Court.

For Petitioner : Mr.C.Bharathi

For Respondents : M/S.K.V.Rajarajan
Government Advocate (Crl.Side)

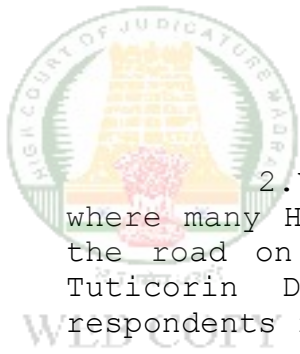
ORDER

This petition has been filed under Section 482 Cr.P.C., praying to direct the respondents to register a case on the complaint of the petitioner, dated 24.01.2015 & 27.01.2015 and to investigate the same and file a final report within a stipulated time.

2. The representation of the petitioner to the first respondent, the Director General of Police, reads as follows:

1.Refer the Tamil Daily Newspaper "Dhinakaran" dated 22 Jan. 2015, Tirunelveli, Thoothukudi District News, Page No.13, which is attached herewith in PDF and JPEG Format, whereas the same shall be downloaded from the web url link

https://hservices.ecourts.gov.in/hcservices/http://epaper.dhinakaran.com/pdf/2015/01/22/20150122e_013107010.pdf



2. You may find the photo published in the above said newspaper, where many HOLY BIBLES, the Holy Book of Christians, has been thrown over the road on 21 Jan. 2015, before the Office of the District Collector, Tuticorin District, Tamil Nadu, whereas few of the protestors as respondents from 3 to 11 were standing beside the Bibles thrown on road.

3. Throwing the BIBLES on the road before the Office of the District Collector is being done by the Protestors in the presence of the Police Officers.

4. So far, neither the police nor the District Collector has taken no action against the respondents from 3 to 11, atleast the FIR has not been registered. Whether the respondent 1 & 2 were intentionally supporting the respondents from 3 to 11 to promote the Anti-Christian Policies of Hindu Munnani Terrorist Organization or they were also afraid of the Hindu Munnani Terrorist.

5. Refer the Order dated 03.08.2005 of Honourable Madras High Court vide W.P.Nos.16804 of 2003 and 21187 of 2005, wherein Honourable Justice P.D.Dhinakaran has highlighted the order of Division Bench of Madras High Court, dated 14.07.2005 made in W.P.No.5202 of 1998, held as follows:

"...13. This is free, democratic and secular country. In our country, people of all religions, castes and communities are equal under the Constitution, vide Articles 14 to 18, and they have a right freely to practice their religion, vide Article 25. This country does not belong to Hindus alone. It belongs equally to Muslims, Christians, Buddhists, Jains, Parsis, Sikhs, Jews, etc., and all are equal under the law. Also, it is not that only Hindus can live in this country as first rate citizens while others can live only as second rate citizens. That is not so. In our country all citizens are, and are entitled to live, as first rate citizens. It is the greatness of our Founding Fathers who made the Constitution that at the time of Independence in 1947 when the sub-continent was engulfed in religious madness they insisted that our country shall not be declared as a Hindu State, but shall be a secular State. This was indeed a very difficult thing to do at that time, because when passions are inflamed it is difficult to keep a cool mind. There must have been tremendous pressure on our Founding Fathers to declare India a Hindu State, particularly since Pakistan had declared itself an Islamic State. It is the greatness of our Founding Fathers that they kept a cool mind and resisted these pressures, and provided for a Secular State in India under our Constitution."

6. The respondents from 3 to 11 have done this criminal activity to urge communal and religious violence between the minority Christians and Hindus, with bad intention to gain political benefits.

3. The petitioner has sought to substantiate his case with copies of photographs. Seeking action at the hands of the second respondent, District Superintendent of Police, he has preferred a complaint dated 27.01.2015 in Tamil.



4. The counter of the second respondent, in the view of this court, seems to be an attempt to, if not to suppress the offence, to downplay the incident. The same reads as follows:

COUNTER AFFIDAVIT FILED BY THE SECOND RESPONDENT

I, M.Durai, Son of P.G.Mari Hindu, aged about 34 years serving as Superintendent of Police, Thoothukudi District, do hereby humbly submit this counter as follows:

1.It is humbly submitted that I am the first respondent herein, I am well acquainted with the facts and circumstances of the case from the available records and I am filing this status report.

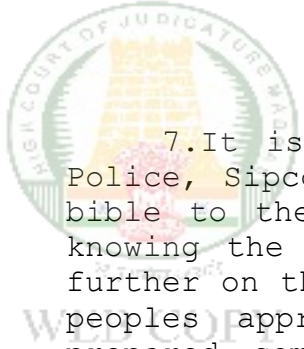
2.It is humbly submitted that, I denied all the allegation stated by the petitioner herein in his direction petition except that those are specially admitted hereunder.

3.It is humbly submitted that the prosecution case is that 12 complaints were received by me and 2 complaints were received by the Inspector of Police, Sipcot Police Station, Thoothukudi District and he issued complaint receipt in C.S.R.Nos.31/2015, dated 29.01.2015 and 35/2015, dated 02.02.2015 in connection with some Hindu Munnani party people were throwing the Holy Bibles which is the Holy Book of Christians in front of District Collector's Office, Thoothukudi District and the same was forwarded to the Inspector of Police, Sipcot Police Station, Thoothukudi District for further enquiry.

4.It is humbly submitted that all the above said petitions were given by various Christian Organizations for the same incident. Further the Inspector of Police Sipcot Police Station received all the complaints and after receiving the complaints, the Inspector of Police, Sipcot police station summoned both the parties for enquiry.

5.It is humbly submitted that during the enquiry the alleged accused person (who were the party members and leaders of the BJP Party) stated that they received one phone call from the general public Mudivaithanenthal village and on the basis of the phone call they went to Government High Secondary School, Mudivaithanenthal and came to know that some Christian Organisation peoples issued the Holy Bible to the school student and also they stated that the Head Mistres of the School namely Tmt. Neelipushpam forced the student to read the Bible.

6.It is humbly submitted that further on enquiry with the Head Mistres namely Tmt. Neelipushpam, she stated that she was engaged with some enquiry in the school, at that time some persons came from "Kithiyon" Christian Organisation and requested to give some books related to good habits to the student and she permitted them, after that only she came to know that the said persons issued the Holy Bible to the students, on knowing this facts immediately recollect the all the given bible from the students.



7. It is humbly submitted that the investigation of the Inspector of Police, Sipcot police station revealed that the volunteers given the holy bible to the students without the knowledge of the head masters and on knowing the facts she recollected all the given bible from the students further on the basis of the intimation by the general public the BJP party peoples approached the school and collect all the Holy Bibles and prepared complaint and went to District Collector's Office for giving complaint at the time in front of the District Collector's office the box which contains the Holy Bible and all the Holy Bibles box drop down at the time the reporters take photographs and published the news. Actually it was happened accidentally the BJP party peoples did not throw any of the Holy Bible. Further peoples of the Christian Organizations developed the issue and preferred a complaint with false allegations.

8. It is humbly submitted that the petitioner herein also sent E-mail complaint to the Director General of Police, Chennai and Superintendent of Police, Thoothukudi District and other Higher Officials of the police Department. On receiving the E-mail, I instructed the Inspector of Police, Sipcot police station to take further action on the basis of the E-mail complaint and he also sent the summons to the petitioner herein for enquiry, but the averment stated by the petitioner herein by his E-mail complaint also connected with the above said incident.

9. It is humbly submitted that based on the enquiry and on the basis of the statements given by the both parties the Inspector of Police, Sipcot police station closed the petition enquiry and take all the necessary steps to sent the closure report to the various complainants.

5. In the circumstances, where the very counter of the second respondent informs an incident and where the petitioner informs of commission of cognizable offences in the course thereof, the respondents are duty bound to follow the dictate of the Honourable Apex Court in **Lalitha Kumari vs. Govt. of U.P & others [2013 (4) Crimes 243 (SC) and** register a case on the complaint of the petitioner. Hence, there shall be a direction to the second respondent to register a case on the complaint of the petitioner and in keeping with powers provided under Section 36 Cr.P.C.

6. As the counter of the second respondent discloses a premeditated approach regards the matter it would not be safe to entrust the investigation of the case in his hands. Towards serving the cause of justice and upholding the rule of law, there shall be a direction to the first respondent to entrust the investigation in the case to a competent senior police Officer not below the rank of Additional Director General of Police.

This Criminal Original Petition is ordered accordingly.

Sd/
Assistant Registrar

/True copy/



To

1.The Director General of Police,
Police Head Quarters,
Chennai - 600 004.

2.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1cc to M/S. C.Bharathi, Advocate in SR.No. 8119

TS/12.03.2015/5P-5C

CRL.O.P. (MD) No.2309 of 2015

23.02.2015