



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL OP (MD) Nos.16751 to 16758 of 2017

and

CRL MP (MD).Nos.11054 to 11061 of 2017

Vedhanayagam	...Petitioner in CRL OP (MD) No.16751 of 2017
V.Edwin	...Petitioner in CRL OP (MD) No.16752 of 2017
A.H.L.Billy	...Petitioner in CRL OP (MD) No.16753 of 2017
Jeeva kumar	...Petitioner in CRL OP (MD) No.16754 of 2017
R.Devadoss Gnanaraj	...Petitioner in CRL OP (MD) No.16755 of 2017
C.Wilson	...Petitioner in CRL OP (MD) No.16756 of 2017
Devadoss C	...Petitioner in CRL OP (MD) No.16757 of 2017
I.D.S.Abraham	...Petitioner in CRL OP (MD) No.16758 of 2017

Vs.

1.The Executive Magistrate cum
Deputy Commissioner of Police
(Law & Order),
Tirunelveli Town.

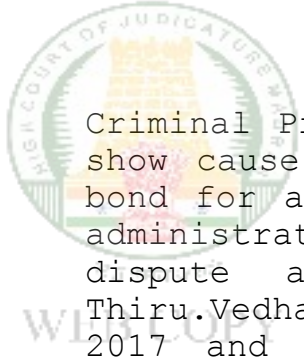
2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District. ...Respondents in all cases

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to quash the proceedings dated 31.10.2017 in EMC.No.240 of 2017, on the file of the Executive Magistrate cum Deputy Commissioner of Police (Law & Order), Tirunelveli Town.

For Petitioner	: Mr.T.R.Jeyapalam
For Respondents	: Mr.K.Duraipandi
	Additional Public Prosecutor
	(in all cases)

C O M M O N O R D E R

The petitioners in these Criminal Original Petitions challenge the validity of the proceedings issued under Section 107 of the



Criminal Procedure Code. The petitioners have been called upon to show cause as to why they should not be called upon to execute a bond for a sum of Rs.50,000/-. The subject matter relates to the administration of the CSI Diocese of Tirunelveli. An election dispute arose between the two groups. One is led by Thiru.Vedhanayagam, the petitioner in CrI.OP.(md).No.16751 of 2017 and the other by Rev.J.J.Christhudoss, the Bishop of the Diocese. The dispute gave rise to institution of O.S.No.128 of 2011, on the file of the Additional Subordinate Court, Tirunelveli. It was a representative suit. The matter went up to the Hon'ble Supreme Court in S.L.P.No.10562 of 2017. An Advocate Commissioner as well as the observer were appointed to oversee the election process. The election process got concluded on 23.04.2017 and the group led by Thiru.Vedhanayagam succeeded. They have since assumed office on 30.05.2017. This led to registration of criminal cases and also initiation of proceedings under Section 107 of the Criminal Procedure Code.

2.The learned Executive Magistrate, Tirunelveli City, initiated proceedings against both the groups on 06.06.2017. The petitioners herein questioned the show cause notice dated 06.06.2017 made in E.M.C.No.84 of 2017. This Court by order dated 18.09.2017 granted stay of the said proceedings. Thereafter there was a fresh lodging of First Information Reports at the instance of the rival parties. Based on the subsequent FIRs, which were registered on 24.09.2017, the present proceedings have been initiated. The petitioners herein have been shown as accused in Crime No.739 of 2017, dated 24.09.2017. The other group is shown as accused in Crime No.738 of 2017, lodged at the instance of the petitioners herein on the same date. Thus there are a case and a counter-case. The Inspector of Palayamkottai Police Station, thereafter, registered Crime No.741 of 2017 on 27.09.2017. Strangely, the said FIR has been registered under Section 107 of the Criminal Procedure Code. This has given rise to the impugned notice dated 31.10.2017.

3.Heard the learned counsel for the petitioners and the learned Additional public Prosecutor for the respondents.

4.The learned counsel appearing for the petitioners took this Court through the textual contents of the earlier show cause notice dated 06.06.2017 issued under Section 107 of Criminal Procedure Code. It is clearly mentioned in the said notice that the petitioners herein have won in the Diocese elections. A reading of the material on record shows that the petitioners herein are the successful candidates in the Diocese elections which was quite bitter and acrimonious. It is beyond dispute that the election was conducted under the aegis and supervision of Court appointed officers. Therefore, obviously the petitioners are entitled to hold the offices to which they have been duly elected. If disputes again arise, the duty of the police is to proceed against those persons who acted in a wrongful manner. Section 107 of the Criminal Procedure Code can be invoked only if the learned Executive



Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility.

5.If a person is discharging a duty or merely enforcing his right by no stretch of imagination can this be construed as something that could attract section 107 of Cr.P.C Unless the learned Executive Magistrate receives information that a person is likely to do a wrongful act, the provision cannot be invoked. Section 107 of Cr.P.C. cannot be interpreted to mean that action can be taken even against those engaged in doing something legitimate and legal on the ground that their acts are likely to cause of breach of peace. It would be stifling the legitimate rights of the citizens. In the present case, the learned Executive Magistrate has not recorded such a finding. As rightly pointed out by the learned counsel for the petitioners, the present proceedings appear to have been initiated only to overreach the earlier interim order granted by this Court on 18.09.2017 in CRL.OP.(MD).Nos.12333 to 12338 of 2017. The impugned proceedings are therefore set aside.

6.All the Criminal Original Petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

- 1.The Executive Magistrate cum
Deputy Commissioner of Police
(Law & Order),
Tirunelveli Town.
- 2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2cc to Mr.T.R.Jeyapalam, Advocate, SR.No.93990

CRL OP (MD) No.16751 to 16758 of 2017
18.12.2017

TSG

KK/SV MMS/09.04.2018/SAR-3/3P-6C