

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 07.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

WEB COPY

**Crl.O.P.(MD)No.998 of 2017 &
Crl.M.P.(MD) .No.1086 of 2017 &
W.P.(MD) .No.1790 of 2017 &
W.M.P.(MD) .No.1477 of 2017 &**

Crl.O.P.(MD) .No.998 of 2017

Ferry Fernandez 42 years
S/o. Gilbert G.Fernandez
Chairman cum Managing Trustee
Gilbert Fernandez Memorial
Educational Trust,
E.P.Thurai, Thoothur
Kanyakumari District.

: Petitioner

Vs.

1.State rep. by
The Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Nithiraivillai Police Station,
Nagercoil,
Kanyakumari District.

: Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to direct the 2nd respondent to give suitable protection to the petitioner and to the Holy Angel International School,Nambali based on the representation dated 01.08.2016.

For Petitioner : Mr.M.Soundar Vijaya Arulram

For Respondent : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

W.P.(MD) .No.1790 of 2017

Mr.Joseph Sunny
Correspondent,
Holy Angels International School,
Nambali,
<https://hcservices.ecourts.gov.in/hcservices/>
Nithiraivillai Post Office,
Kanyakumari District.

: Petitioner



Vs.

1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Nithravilai Police Station,
Kanyakumari District.

3.Ferry Fernandez,42 years
S/o. Gilbert G.Fernandez
Chairman cum Managing Trustee
Gilbert Fernandez Memorial
Educational Trust,
E.P.Thurai, Thoothur
Kanyakumari District.

: Respondents

(R3 is impleaded vide Court order dated 07.02.2017)

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents to provide adequate police protection to the petitioner and his wife to protect their life and limb and to ensure the smooth and safe running of the Holy Angels International School, run by the petitioner.

For Petitioner : Mr.M.Mahaboob Athiff for
M/s.Ajmal Associates

For Respondents : Mr.T.S.Mohammed Mohideen, for R1 & R2
Additional Government Pleader

COMMON ORDER

On a reading of the affidavit filed in support of the writ petition and the averments made in CrI.O.P.(MD).No.998 of 2016, it is limpid that there are serious disputes between Joseph Sunny group and Ferry Fernandez group with regard to the administration of the trust that runs Holy Angels International School, Nambali, Nithriavilai, Kanyakumari District. Therefore, each one of them had given representation to the police seeking police protection and thereafter they have filed the aforesaid petitions before this Court.

2. The Inspector of Police, Nithravilai Police Station, Kanyakumari District, has filed a counter affidavit, wherein it is stated in paragraphs 5 to 10 as follows:-

"5. The respondents are not fully aware about the

[https://hcservices.courts.gov.in/hcservices/](https://hcservices.courts.gov.in/hcservices/courtsgov.in/hcservices/) disputes in between the Trustees and others in connection with the "Gilbert Fernandez Memorial



Educational Trust' and the school viz. Holy Angels International School at Nambali, Nithiravilai. But the petitioners and his men on one part and the rival group on other part are claiming right in the said School Trust. Both the said parties are repeatedly claiming right in the above said school and thus, they have created law and order problem in the School and in the locality which falls within the jurisdiction of this respondent 's police station.

6. The respondent respectfully submits that both the parties have lodged several complaints before this respondent police and the police have also registered their complaints and issued receipts as per Receipt No.7/2017, dated 09.01.2017 for the complaint lodged by Bery Fernandez against the writ petitioners and others and Receipt No.19/2017, dated 23.01.2017 for the complaint lodged by the writ petitioner against Bery Fernandez and others. The police has also enquired the matters by hearing both the parties and they were directed not to create any law and order problem . Further the illegal acts of both the parties viz. the writ petitioners and others were continuing.

7. This respondent further states that on the complaint filed by either parties and in connection with the other complaint the writ petitioner and this men are not attending the enquiry even after sufficient notice has been served on them.

8. This respondent further states that the attempt of the writ petitioner and others is to continue their illegal activities on the guise of the police by seeking the police protection.

9.The contention of the petitioner that there is no action on the part of the respondents for the complaints lodged by him seeking police protection is not at all correct. The respondents cannot issue any police protection to the writ petitioner or others for achieving their illegal object.

10.The respondent further states that for the disputes between the parties who are claiming right in the School as well as in the Trust are not finalized or settled between them. So either parties are repeatedly attempting to interfere in the administration of the School etc.,"

3. In a case of this nature, when there are disputes between the parties, they have to settle the same before the civil Court. One cannot use the machinery of police under the guise of seeking police protection for asserting his right against the school. The writ petitioners, in the considered opinion of this Court, police protection cannot be granted to both the petitioners. However, the respondent police are directed to maintain law and order and



if there is any commission of cognizable offence, police shall take appropriate criminal action against the group which indulges in violence.

4. With the above direction, these petitions are closed with liberty to the petitioners to work out their remedies before the civil Court. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Nithiraiyillai Police Station,
Nagercoil,
Kanyakumari District.

+2CC's TO MS/AJMAL ASSOCIATES SR.No. 51344 & 51037

+1cc to M/S.R.C.PAUL KANAGARAJ ADVOCATE SR.No. 51312

+1cc to SPECIAL GOVT.PLEADER SR.No. 51223

Jikr

AE/SKN/RSK/20.04.2017/4P/7C

Common Order made in
Cr1.O.P. (MD) No.998 of 2017 &
Cr1.M.P. (MD) .No.1086 of 2017 &
W.P. (MD) .No.1790 of 2017 &
W.M.P. (MD) .No.1477 of 2017 &
Dated: 07.04.2017