



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.08.2017
CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.13015 of 2017
and
W.P. (MD) No.9859 of 2017
and
W.M.P. (MD) .No.7556 of 2017
and
CRL.OP (MD) No.6022 OF 2017
and
CRL.MP (MD) .Nos.5892 & 4058 of 2017

W.P. (MD) .No.13015 of 2017

Mr.N.Subbiah

... Petitioner

-Vs-

1. The District Collector,
Office of the District Collectorate,
Thoothukudi District.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi District.
3. The Revenue Divisional Officer,
Revenue Divisional Office,
Kovilpatti,
Thoothukudi District.
- 4.The Inspector of Police,
Sipcot Police Station, Thoothukudi District.

5.Mr.Ponraj

...Respondents

Prayer: Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Sae.Mu.Aa.No./C5 PS/Thoodi/17 dated 02.07.2017 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the respondent Nos.1 to 4 to grant permission with police protection to perform the "Kodai Vizha" of "Sri



Santhanamariamman Thirukovil" to be held from 25.07.2017 to 02.08.2017 situated at South Veerapandiyapuram Village, Ottapidaram Taluk, Thoothukudi District.

For petitioner
For Respondents

: Mr.T.Lajapathi Roy
: Mr.M.Govindan
Special Government Pleader

W.P. (MD) .No.9859 of 2017

A.Maniraj ... Petitioner

-Vs-

1. The Superintendent of Police,
Thoothukudi District.
Thoothukudi.
2. The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.
3. The Tahsildar,
Ottapidaram Taluk, Thoothukudi District.
- 4.The Inspector of Police,
Sipcot Police Station,
Thoothukudi,
Thoothukudi District.

...Respondents

Prayer: Petition filed under Section 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 4 not to grant permission to any of the party in proceedings M.C.No.A1/308/2017 on the file of the 2nd respondent for conducting Arulmigu Santhana Mariamman Kovil Temple Festival situated at South Veerapandiappuram, Ottapidaram Taluk, Thoothukudi District, till amicable settlement arrive in the said proceedings between the parties and to pass such other or further orders as this Court.

For petitioner
For Respondents

: Mr.A.S.Vaigunth
: Mr.M.Govindan
Special Government Pleader

CRL.OP (MD) No.6022 OF 2017

1.P.Venkatakrishnarajan @
Chellachami Naiker



4.M.Rajaram

5.N.Subbaiah

6.S.Jeyaraj

.. Petitioners/A Party

WEB COPY

Vs.

1.The Sub-Divisional Magistrate cum
The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

2.The Inspector of Police,
Sipcot Police Station,
Tuticorin District.
(Crime No.90 of 2017)

3.Mr.Ponraj

.. Respondents/ B Party

PRAYER: Petition filed under Section 482 Code of Criminal Procedure Code to call for the records pertaining to the impugned proceedings in M.C.No.A1/308/2017 on the file of the Respondent No.1 dated 19.04.2017 and quash the same as illegal.

For petitioners

: Mr.T.Lajapathi Roy

For Respondents

: Mr.R.Ramachandran

Additional Public Prosecutor

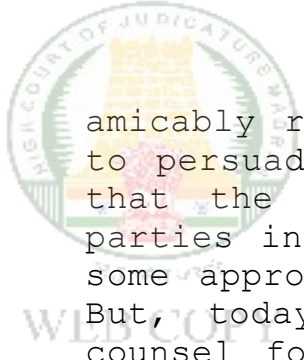
C O M M O N O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

W.P(MD).No.9859 of 2017 has been filed by one A.Maniraj for restraining the authorities from granting permission to any of the parties to the proceedings in M.C.No.A/308/2017 on the file of the second respondent herein for conducting Arulmigu Santhana Mariamman Kovil temple festival situated at South Veerapandiayapuram, Ottapidaram Taluk, Thoothukudi District till amicable settlement is arrived at between the parties.

2.This Court cannot entertain such a prayer. It is for the statutory authorities, to take an appropriate decision taking into account the prevailing ground realities. This Court cannot injunct the police from taking any decision in the discharge of their statutory obligations. Therefore the writ petition is dismissed.

[https://hcservices.ecourts.gov.in/HcsService\(MD\).No.13015](https://hcservices.ecourts.gov.in/HcsService(MD).No.13015) of 2017 has been filed one Subbaiah challenging the order dated 12.07.2017 issued by the 4th respondent herein declining permission to conduct the temple festival. For



amicably resolving the issue, this Court spent considerable time to persuading the parties to arrive at some kind of solution so that the temple festival can be celebrated peacefully. The parties in fact assured this Court that they would come up with some appropriate proposal. Therefore, the matter was adjourned. But, today when the matter came up for hearing, the learned counsel for the parties stated that they could not arrive at a consensus. The writ petitioners namely, Subbaiah and Maniraj belong to the same community. It is informed that a Criminal case was registered under the provisions of SC/ST(POA) Act 1989 against the other villagers at the instance of Maniraj. The 4th respondent in the impugned order has stated that an extraordinary situation is prevailing in the village. The fourth respondent has expressed his apprehension that if one party is permitted to celebrate the festival it can give rise to law and order problem. The apprehension of the 4th respondent appears to be legitimate. We therefore do not deem it fit or proper to interfere with the order dated 02.07.2017 impugned in this writ petition.

4.It is made it clear that the dismissal of the writ petition would not foreclose the parties from agitating their rights in the manner known to law. It is made clear that the competent authorities will not mechanically reject their request for celebrating the temple or other festivals during the succeeding months by citing this order. The decision to grant permission would rest on the circumstances then prevailing. This Writ Petition is dismissed with these observations.

5.Coming to CRL.OP(MD)No.6022 OF 2017, the Petitioners in this case challenge the order dated 19.04.2017 issued by the first respondent herein. The first respondent has initiated proceedings under Section 107 of Cr.P.C. This Court has held in a number of decisions that while initiating proceedings under Section 107 of the Criminal Procedure Code, grouping the parties as "A" Party and "B" Party is not proper. Even the summons has not been issued properly. It reads as under:

"Where your attendance is necessary to answer to charge of Crime No.90, 91/2017 Sipcot Police Station under Section 107 cr.p.c.

You are hereby required to appear in person/by before the Sub Divisional Magistrate Kovilpatti at 11.00 A.M. on the 24.04.2017 without fail."

6.There is nothing to indicate that the Sub Divisional Magistrate had received credible information that the petitioners herein are likely to indulge in breach of peace, so that they should be required to show cause as to why they should not be required to execute the bond.



7. The summon has been mechanically issued. Even the substance of the information received by the Sub Divisional Magistrate has not been set out. Since, the mandatory requirements required under the Criminal Procedure Code has not been met. This Court is inclined to quash the summons. Therefore, on these grounds this Court quashes the impugned proceedings. Hence, this Criminal Original Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Office of the District Collectorate,
Thoothukudi District.
 2. The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi District.
 3. The Revenue Divisional Officer,
Revenue Divisional Office,
Kovilpatti, Thoothukudi District.
 4. The Inspector of Police,
Sipcot Police Station, Thoothukudi District.
 5. The Tahsildar,
Ottapidaram Taluk, Thoothukudi District.
- + 1 cc TO Mr.A.S.Vaigunth , Advocate in SR No. 71390
+ 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No. 71441
+1cc to The Special Government Pleader in SR.No.71650

SSS
AE/KP/SAR3/09.10.2017/5P/9C

ORDER MADE IN
W.P. (MD) .No.13015 of 2017
08.08.2017