

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2018

C O R A M

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Cr1.R.C.No.252 of 2018
and
CRL.M.P.No.2673 of 2018

Grace Lutheran Church,
Rep. by its Secretary,
V. John Moses,
Mission Compound,
Old Colony, Thuthipet,
Ambur, Vellore District.

.... Petitioner

Vs.

- 1.The Sub-Divisional Magistrate,
And Sub Collector,
Tirupathur,
Vellore District.
- 2.The Tahsildar,
Ambur Taluk,
Ambur, Vellore District.
- 3.The Village Administrative Officer,
Thuthipet Village and Post,
Ambur Taluk,
Vellore District.
- 4.The Inspector of Police,
Oomerabad Police Station,
Oomerabad, Vellore District.
- 5.Rev.V.Premkumar

.... Respondents

Prayer: Criminal Revision Case has been filed under Section 397 and 401 of Cr.P.C., against the order in M.C.No.28 of 2017 dated 30.06.2017 passed by the learned Sub-Divisional Magistrate/Sub Collector, Tirupathur, Vellore District.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mr.R.Suriyaprakash (for R1 to R4)
Government Advocate (Crl.Side)

Mr.M.Praveen Kumar (for R5)

O R D E R

The order under challenge in this Civil Revision Case is as against the order passed by the 1st Respondent in M.C.No.28 of 2017 dated 30.06.2017 under Section 107 of Cr.P.C.

2.The case of the petitioner is that a rivalry was in existence in respect of capturing a Church Administration in Thuthupet Village, Ambur Taluk, Vellore District between 2 groups of same community. The groups of people headed by the petitioner herein and another group headed by one Premkumar are the root cause of the issue. So, a case in First Information Report in Crime No.66 of 2017 dated 19.02.2017 was registered by the 4th Respondent under Section 107 of Cr.P.C. The said proceeding is under challenge in this Criminal Revision Case.

3.The learned counsel for the petitioner would submit that the petitioner has been arrayed as 1st person in the aforesaid First Information Report and the instant proceeding is bad in law for the reason that before initiating proceedings under Section 107 of Code of Criminal Procedure, the 1st respondent has not complied with the procedures contemplated under Section 111 of the Code of Criminal Procedure.

4.The learned counsel for the Revision Petitioner would further submit that when a Magistrate initiating proceedings under section 107 of Cr.P.C., it is necessary for him to require a person to show cause by resorting Section 111 of Criminal Procedure Code. It is also the duty of the 1st respondent that he shall make an order in writing setting for the substance of the information required. Here in the case on hand there is no reference in the impugned order that the 1st Respondent complied with the procedure contemplated under Section 111 of the Criminal Procedure Code. Hence, the learned counsel prays for the quashment of the impugned order of the 1st Respondent.

5.Per contra, the learned Government Advocate (Criminal Side) would submit that in passing the order under challenge, the 1st Respondent has complied with the procedures contemplated in the relevant code. Moreover the proceedings was initiated based on the F.I.R. registered in Crime No.66 of 2017 dated 19.02.2017 and also based on the report submitted by the Tahsildar, Ambur Taluk, in Na.Ka.No.M-1/2017 dated 24.02.2017. So based on the credible information the 1st Respondent was constrained to pass the order under Section 107 of Cr.P.C., hence, he prays for the dismissal of the original petition.

6.In addition to the submissions made by the learned Government Advocate (Criminal Side), the learned counsel for the 5th Respondent would submit that though there is a dispute in the Church administration, the 5th Respondent has never acted as against the interest of the Church and never disturbed the tranquility in the administration of the church. Therefore the order passed by the 1st Respondent as against the petitioner is correct and no interference is required.

7.I heard Mr.B.Gopalakrishnan, learned counsel for the petitioner, Mr.R.suriyaprakash, learned Government Advocate (Criminal Side) for the respondents 1 to 4 and Mr.M.Praveen Kumar, learned counsel for the 5th respondent and perused the entire materials available on record.

8.It is seen from the records that there is a dispute between two groups in the administration of the Church. In this regard several cases have been filed by invoking the writ, civil and criminal jurisdiction. Apart from that when the proceeding was initiated by the 1st respondent, the situation was not conducive. Hence, a case in Crime No.66 of 2017 was registered on the file of the 4th Respondent based on the complaint of the Village Administrative Officer of Thuthipet Village, Ambur Taluk, Vellore District on 19.02.2017.

9.However, for the alleged occurrence mentioned in the aforesaid F.I.R, it is not brought to my notice as to whether the other party lodged any complaint. Moreover, the letter written by Tahsildar, Ambur Taluk dated 27.02.2017 has not referred any of the F.I.R. registered in this regard. At the same time, it is referred in the letter of the Tahsildar that

the petitioner and his men created panic that they would resort in violence and thereby intimidated the common public. Further, the petitioner and his men, who are 'B' parties were arrayed as accused as they resorted in affray and the church was locked in order to maintain Law and Order. Thereafter based on the information, the impugned order was passed by the 1st Respondent.

10. It is relevant and trustworthy to note here that when the impugned order of the 1st respondent is perused, it would disclose that before passing the order an enquiry was conducted. In the enquiry, the petitioner and 7 others gave a statement stating that they have also gave undertaking that they would not cause any Law and Order problem. The appraisal of the impugned order would show that there is a dispute between two groups in respect of the administration of the Church. But the proceedings initiated under Section 107 of Cr.P.C. is relating to the Public tranquility. Moreover, the perusal of the materials has not shown that the alleged dispute or rivalry between the two groups, especially in respect of the church administration, would go to the extent to commit a breach of 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.

11. Though, it is referred in the letter written by the Tahsildhar, Ambur Taluk, to the 1st Respondent that the petitioner and his members threatened common public. It is not supported by any materials and it does not have any relevance to whole issue. Admittedly there is a dispute between two groups in respect of Church administration, when that is the circumstances; it is unbelievable to say that the Petitioner and his men threatened the common public. No complaint either received or registered from any common public that they were threatened by the petitioner and his men.

12. In such circumstances in my considered opinion the proceeding initiated under Section 107 of Cr.P.C., is not necessary as the case on hand is in respect of the dispute between two groups, but in respect of the administration of a Church which is no way connected with the public tranquility. Apart from that in order to maintain the law and order in the society, the police have various legal methodologies to control the same. So, to maintain law and order in the society, the initiation of proceedings under Section 107 of Cr.P.C., is not necessary.

13.The Election Commissioner namely, Mr.Benjamin Franklin conducted the election as per the order in I.A.No.7854 of 2014 in O.S.No.2666 of 2014 on 22.05.2014, in the result, one Rev.K.Victor was elected as President of Ambur Synod and other person and the same was declared as valid one by competent Civil Court in I.A.No.7226 of 2015 in O.S.No.2784 of 2015 order dated 24.06.2015 against which C.M.A.No.64 of 2015 was filed, that was dismissed on 05.02.2016. After completion of 3 years term again election was conducted by very same election officer on 25.05.2017 and 26.05.2017 for Ambur Synod and I.E.L.C. Respectively and again Rev.K.Victor elected as President of Ambur Synod is valid one in the eye of law.

14.As per the by-law the present Church comes under the control of Ambur Synod, the Synod is competent authority to appoint Pastor in the church. On perusal of the record, the Ambur Synod is appointed a Pastor one Rev.Gladson Premkumar is valid one, the claim of the 5th respondent as a Pastor in the church is not acceptable and not valid. The 4th respondent is directed to give sufficient protection to the petitioner group people and other persons to worship in the church.

15.In the result, the Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs
To

1.The Sub-Divisional Magistrate/Sub Collector,
Tirupathur, Vellore District.

2.The Public Prosecutor,
High Court, Chennai-104.

3.The Tahsildar,
Ambur Taluk,
Ambur, Vellore District.

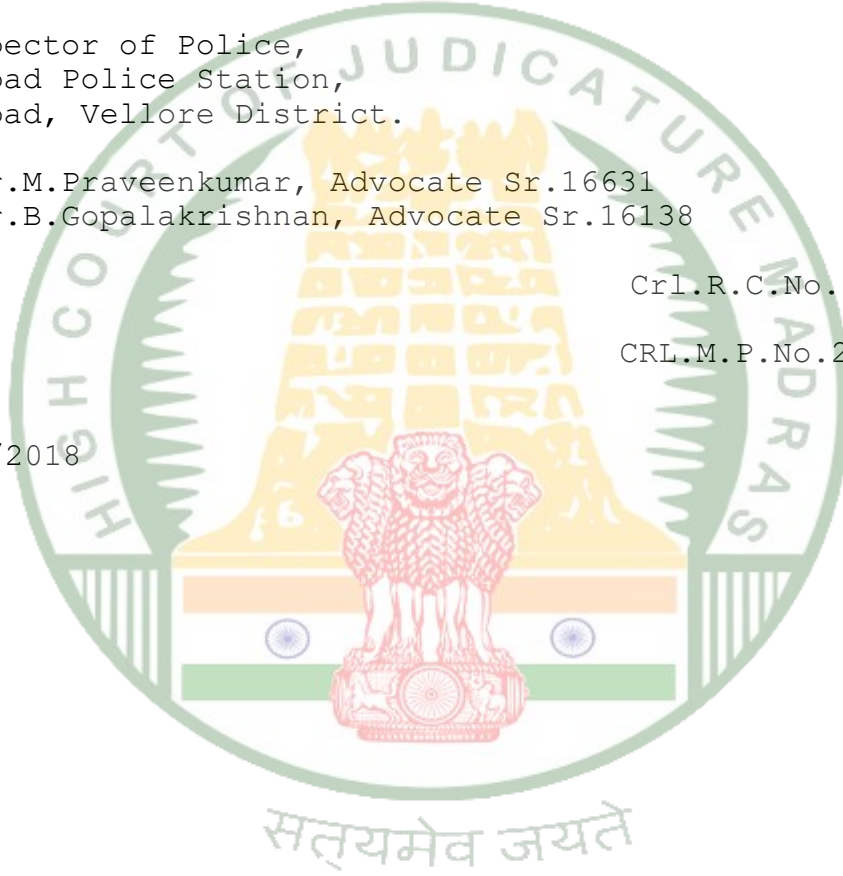
4.The Village Administrative Officer,
Thuthipet Village and Post,
Ambur Taluk,
Vellore District.

5.The Inspector of Police,
Omerabad Police Station,
Omerabad, Vellore District.

+1cc to Mr.M.Praveenkumar, Advocate Sr.16631
+1cc to Mr.B.Gopalakrishnan, Advocate Sr.16138

Crl.R.C.No.252 of 2018
and
CRL.M.P.No.2673 of 2018

srg 20/08/2018



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