



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.[MD].No.20383 of 2018

and

Crl.M.P. (MD) Nos.9395 & 9396 of 2018

M.Iyyappan

: Petitioner/Accused

Vs.

1.The Executive Magistrate,
cum Deputy Commissioner of Police,
(Law and Order)
Tirunelveli City,
Tirunelveli District.

2.The State represented by
The Inspector of Police,
Tirunelveli Junction Police Station,
Tirunelveli District.
(LIR No.14 of 2018)

: Respondents/Complainants

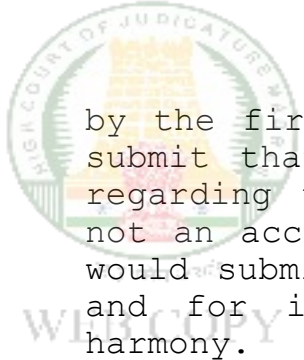
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in E.M.C.No.90/2018, dated 01.11.2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.S.Palani Velayutham
For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed seeking to call for the records in E.M.C.No.90 of 2018, dated 01.11.2018 on the file of the first respondent and quash the same.

2.The learned counsel for the petitioner would submit that the petitioner is a Government Servant and that the second respondent made a communication under reference L.I.R.No.14 of 2018, under Section 107 of Cr.P.C. to the first respondent for initiating proceedings as against the petitioner for the alleged breach of public peace and tranquility and on that basis, the second respondent had issued a summon under Section 113 of Cr.P.C. to the petitioner herein on 01.11.2018, calling upon the petitioner as to why he should not execute a bond for a sum of Rs.1,00,000/- for keeping public peace by appearing before the second respondent on 03.11.2018. He would further submit that the impugned order passed



by the first respondent is abuse of process of law. He would also submit that in the said order, several cases have been mentioned regarding the dispute between two communities. The petitioner is not an accused in any one of the cases listed on either side. He would submit that no single incident has been alleged against him and for indulging in communal riot and in breach of communal harmony. He would further submit that there is no specific allegation against the petitioner and the entire order is bereft of particulars with regard to any illegal activities done by the petitioner. He would also submit that the petitioner is a Government Servant and he does not belong to any rival group. Such being the case, the second respondent calling upon the petitioner to execute the bond is nothing but an illegal and an improper exercise and is an abuse of process of law and would pray for quashing of the proceedings.

3.The learned Additional Public Prosecutor would submit that the petitioner is the member of the particular Community, who is advising a particular group and however, he would fairly submit that the petitioner is not involved in any of the cases registered against both parties.

4.I have gone through the impugned order. The petitioner is not connected in any of the cases mentioned in the order and admittedly, there is no case pending against the petitioner. Therefore, this Court is of the opinion that the order has been passed without application of mind. Hence, the impugned order has to be quashed. 5.Accordingly, this Criminal Original Petition is allowed and the impugned order in E.M.C.No.90/2018, dated 01.11.2018, on the file of the first respondent, is hereby quashed insofar as the petitioner is concerned. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar(cs-II)

To

1.The Executive Magistrate,
cum Deputy Commissioner of Police,
(Law and Order)
Tirunelveli City,
Tirunelveli District.

2.The Inspector of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Tirunelveli Junction Police Station,
Tirunelveli District.



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

+1cc to Mr.S.Palani Velayutham Advocate in SR.No.96065

Cr1.O.P.[MD].No.20383 of 2018

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