

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2019

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THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3340 of 2019
and WMP.No.3622 of 2019

Syed Mohamed Kalifa Sahib

.. Petitioner

Vs.

1.The Sub-Divisional Magistrate-cum-Sub Collector,
Sub-Collector Office,
Nagapattinam.

2.The Inspector of Police,
Nagore Police Station,
Nagapattinam District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorari, calling for the record of the impugned proceedings dated 22.01.2019 in M.C.No.02/2019 on the file of the 1st respondent and quash the same.

For Petitioner : M/s.S.Haja Mohideen Gisthi

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

सत्यमेव जयते

O R D E R

This petition has been filed challenging the impugned proceedings dated 22.01.2019 in M.C.No.02 of 2019 issued by the first respondent, thereby directing the petitioner to appear for an enquiry on 25.01.2019.

2.The petitioner is an Ex-President of Nagore Dargah Advisory Board. The said Nagore Dargah is managed by Board of Trustees consisting of eight trustees. The succession to the office of Trusteeship was settled by a scheme of management

framed by the then District Court of East Tanjore at Nagapattinam in O.S.No.30 of 1946, which was also confirmed in A.S.Nos.289 and 576 of 1948 by this Court. In pursuance of the scheme drafted by the District Scheme Court, Nagapattinam, the petitioner was elected as President in the year December 2012 and also continued to be the President of the Advisory Board upto 06.01.2019. While so, during the period of his Presidentship, he filed a writ petition in W.P.No.37659 of 2015 to find out the properties of Nagore Dargha all over Tamilnadu and this Court by an order 29.01.2016, gave interim direction that not to align the properties stands in the name of Nagore Dargha. Subsequent to this order, the petitioner was receiving threat through letters from unknown persons. Hence, he lodged a complaint to the second respondent in the year 2017. The second respondent registered a case in Crime No.3 of 2019 on 03.01.2019. In fact, in respect of performing the religious rituals and ceremonies among the trustees, there was a dispute for which so many writ petitions were pending before this Court. In this backdrop, the interim administrators of the Dargah has sent pamphlets announcing that the 462nd Annual Urus Festival for Nagore Andavar will commence on 06.02.2019 and the main functions like sandalwood pasting and Sandhana Koodu procession will be held on 15.02.2019. The said pamphlets were issued in the names of the Nagore Dargah Interim Adhoc Administrators. Hence, the petitioner's father sent a representation dated 26.12.2018, which were not replied. Hence, he filed W.P.No.20981 of 2018, wherein this Court had granted the petitioner requisite permission. Thereafter, the petitioner also filed W.P.No.2109 of 2019, seeking to allow his father or his subordinates to participate and perform the holy ceremonies, which the 8th Trustee had been carrying on during his life time and the same is pending before this Court. In the meanwhile, the petitioner's father received an impugned notice dated 22.01.2019 in M.C.No.02 of 2019 for the reason that there will be breach of public peace and tranquillity during the conduct of Kandhuri/URS festival scheduled to be celebrated between 06.02.2019 to 19.02.2019, due to previous enmity between the 'A' and 'B' parties in conducting of the Nagoor Durgha Chinna Andavar URS festival on 14.08.2018. Challenging the said impugned order, the petitioner is before this Court with aforesaid prayer.

3.The leaned counsel for the petitioner submitted that the incident the impugned order refers to happened on 14.08.2018, on which date the petitioner was not at all in Nagore town and he was travelling in train with his family members and was in Chennai from 11.08.2018 to 15.08.2018 and stayed at Hotel Masa, Egmore. Therefore, the petitioner is no way connected with the alleged occurrence as mentioned by the first respondent in their impugned notice. Without considering these factual aspects, the

first respondent initiated proceedings under Section 176 of Cr.P.C., and issued summons.

4.The learned Additional Public Prosecutor submitted that in this regard, several writ petitions were filed before this Court and the same is pending.

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

6.It is seen that, an impugned summon was issued under Section 107 Cr.P.C. R/w 111 Cr.P.C. Dated 22.01.2019 to the petitioner to attend the enquiry on 25.01.2019. On 25.01.2019, the petitioner has also attended the enquiry and submitted a detailed reply along with the documents to prove that the petitioner was not at all in Nagore Dargah on 14.08.2018 and he was in Chennai from 11.08.2018 to 15.08.2018 and stayed at Hotel Masa, Egmore.

7.In the circumstances, this Court finds it appropriate to direct the respondents to consider the above facts submitted by the petitioner and to consider his representation and pass orders in accordance with law within a period of four weeks from the date of receipt of copy of this order. It is made clear that under the guise of enquiry, the petitioner shall not be harassed by the respondent Police.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

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To

1.The Divisional Magistrate-cum-Sub Collector,
Sub-Collector Office,
Nagapattinam.

WEB COPY

2.The Inspector of Police,
Nagore Police Station,
Nagapattinam District.

3.The Public Prosecutor
High Court, Madras.

+lcc to M/S.Haja Mohideen, Advocate Sr.11988

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