

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 24.01.2019	Delivered on 28.01.2019
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
CRL.O.P.No.28661 of 2018
and
Crl.MP.No.16687 of 2018

1.Mr.Sabeer Ahamad
2.Mr.Asath
3.Mr.Iqbal
4.Mr.Dhameem Marakaiyar

... Petitioner

.Vs.

1.The Sub-Inspector of Police,
Vellore North Police Station,
Vellore.

2.Mr.Kanagaraj ,
Government Official Non-Gazatted,
Village Administrative Officer,
No.3, Melmonavur Villar,
Konavattam, Vellore.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the case in Cr.No.655 of 2018, on the file of the 1st respondent herein and to quash the same as illegal.

For Petitioners : Mr.I.Abdul Basith
Mr.K.Nizamuddin

For R 1 : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR registered by the 1st respondent Police in Cr.No.655 of 2018, for an offence under Sections 143, 188 and 153A of IPC.

2. It is the case of the prosecution is that there was a dispute with regard to the construction of a Compound Wall around a Dargah which involved two communities. One of the community was obstructing to the construction of the Compound Wall on the ground that the same will obstruct the passage of vehicle and will cause hardship to the residents in that

locality. Therefore, the concerned authorities stopped the putting up of Compound Wall around the Dargah. This resulted in a tensed situation where there was a chance for both the communities to get into a clash. However, it is alleged that the accused persons were insisting for the construction of the Compound Wall around the Dargah, which according to the Police amounts to creating communal hatred.

3. The learned counsel for the petitioners would submit that an FIR can never be registered for an offence under Section 188 of IPC and only a complaint can be filed by the public servant. For an offence

under Section 153A, there is neither an ingredient of criminal force nor an ingredient of assault. Therefore, no offence has been made out even on a plain reading of the allegations made in the complaint. In view of the same, no offence is made out under Section 143 of IPC also.

4. The learned Additional Public Prosecutor submitted that respondent Police will have to keep the situation under control, and therefore must be permitted to continue with the investigation. That apart, the respondent Police is also in the process of recording statements from the witnesses. The Inspector of Police of the 1st respondent Police Station have also filed a counter before this Court.

5. This Court has carefully considered the submissions made on either side, and also the materials placed on record. It is true that there was a dispute regarding constructing a Compound Wall around the Dargah. This resulted in a wordy quarrel. However, the allegations made in the complaint do not make out any offence. This Court is in agreement with the submissions made by the learned counsel for the petitioners.

6. The parties shall agitate their rights only before a Competent Civil Court, and they should not indulge in any act which may result in a communal clash.

7. In view of the above, the FIR in Cr.No.655 of 2018, on the file of the 1st respondent Police is hereby quashed, and accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(J)

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Sub Assistant Registrar

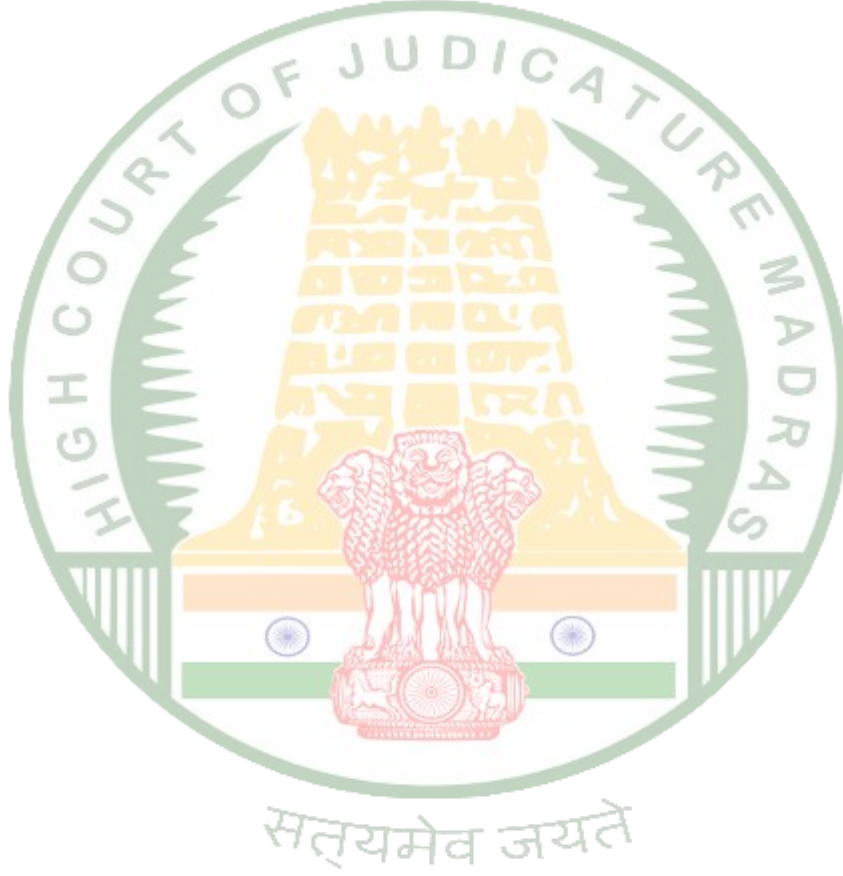
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To

- 1.The Sub-Inspector of Police,
Vellore North Police Station,
Vellore.
- 2.The Additional Public Prosecutor,
High Court, Madras.

Crl.O.P.No.28661 of 2018

rrs 11/02/2019



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