



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P. (MD) No.11844 of 2020

and

CrI.M.P. (MD) No.5450 of 2020

WEB COPY

- 1.Sahaya Michael Remigious
 - 2.Magesh
 - 3.Selvamohan @ George Selva Mohan Dass
 - 4.Alexander @ Peter Alexander
 - 5.Jose @ Alwin Arul Jose
- ... Petitioners

-vs-

1. The Sub-Divisional Magistrate cum
Sub-Collector,
Padmanapapuram,
Kanniyakumari District.
 2. The Sub-Inspector of Police,
Asaripallam Police Station,
Asaripallam, Kanniyakumari District.
- ... Respondents

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to the proceedings of the first respondent in A2/MC 05/2020 dated 08.10.2020 and to quash the same in respect of the petitioners alone.

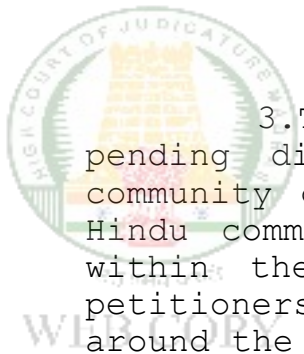
For Petitioners : Mr.N.Pragalathan

For Respondents : Ms.S.E.Veronica Vincent
Government Advocate

O R D E R

Heard the learned counsel on either side.

2.The petitioners challenge the notice issued under Section 111 of Cr.P.C. It is seen that the notice has been issued on the strength of Crime No.74 of 2020 and Crime No.92 of 2020 registered on the file of Asaripallam Police Station. The learned counsel for the petitioner pointed out that the contents of the said First Information Report and the subject matter of the impugned proceedings have nothing to do with the incident. He therefore questioned the validity of the impugned notice as vitiated by non application of mind.



3.The case of the first respondent is that there is a pending dispute between the Hindu community and the Christian community of the village in question. One Rajan representing the Hindu community had caused damage to a tree that is said to be within the church compound. In order to protect the tree, the petitioners who represent the Christian community have put up a wall around the same. In the impugned notice which has been mentioned is that the petitioners representing the Christian community had obstructed the public pathway.

4.I wanted to know whether this allegations is correct. The matter was passed over to enable the learned Government Advocate to get instructions.

5.The learned Government Advocate on instructions stated that the tree is within the church property and the wall has been put up within the church property and there is no obstruction of the public pathway.

6.I am therefore of the view that the very substratum of the impugned notice is absent. That apart, as rightly contented by the learned counsel for the petitioner, the First Information Report referred to in the impugned notice pertains to something else and they have no relation whatsoever on the subject matter on hand. Therefore, the proceedings of the first respondent in A2/MC05/2020 dated 08.10.2020 is vitiated by non application of mind.

7.Accordingly, the proceedings of the first respondent in A2/MC 05/2020 dated 08.10.2020 is quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

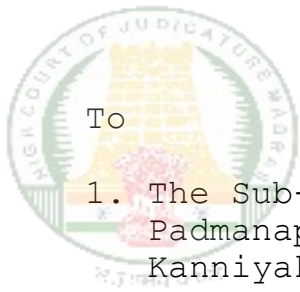
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/ /2020

Sub Assistant Registrar(CS)

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Note : 1.In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Sub-Divisional Magistrate cum Sub-Collector,
Padmanapapuram,
Kanniyakumari District.
2. The Sub-Inspector of Police,
Asaripallam Police Station,
Asaripallam, Kanniyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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PV(CO)
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