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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.10988/2015 & MP.No.1/2015

[Video Conferencing]

1. Shanmugasethuramasamy
2. Palanisamy Gounder
3. Chinnasamy Gounder
4. Velusamy
5. Kandasamy
6. Nachappa Gounder
7. Kuncharappa Gounder
8. Thangavel
9. Sivasubramaniam
10. Balasubramaniam

...Petitioners/Opposite Parties

Versus

1. The Sub Divisional Magistrate/
Revenue Divisional Officer
Dharapuram, Tiruppur District.
2. The Inspector of Police
Vellakovil Police Station
Kangayam Taluk
Tiruppur District.

...Respondents/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned notice issued under section 111 of Cr.P.C., in MC.No.4/2015/E dated 17.04.2015 on the file of the 1st respondent herein and quash the same by allowing this Criminal Original Petition.

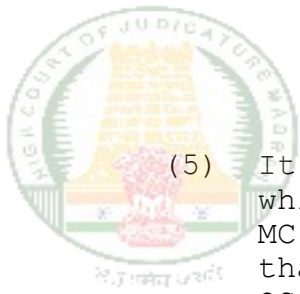
For Petitioner : Mr.R.T.Vishnu for
Mr.N.Manokaran

For Respondents : Mr.E.Raj Thilak
Government Advocate
[Cr1.Side]



ORDER

- (1) Heard Mr.R.T.Vishnu, learned counsel representing Mr.N.Manokaran, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Government Advocate [Crl.Side] for the respondent.
- (2) The present petition has been filed seeking to quash the notice issued under Section 111 of Cr.P.C., in MC.No.4/2015/E dated 17.04.2015, issued by the Sub Divisional Magistrate/Revenue Divisional Officer, Dharapuram in Tiruppur District.
- (3) In Uthamapalayam Village in Kangeyam Taluk, there is a Mariyamman Temple. The said temple is in existence from quite time immemorial. So long as the said temple was the only temple available for the villagers to worship, there had been peace and harmony. However, subsequently, the petitioners herein, who claimed to have land in RS.No.432/C in the very same Village, measuring an extent of 1.62 acres, had taken a decision to construct a Pudu Mariyamman Temple and also a Kalyana Mandapam. This had caused grievances among another set of villagers who objected to the same. As a matter of fact, there was also a civil suit which had been instituted in OS.No.265/2011 in Sub Court at Dharapuram and it is claimed that, vide judgment dated 01.11.2014, the right of the present petitioners had been upheld by the Court. On the basis of such a judgment, the petitioners herein who are in management of a Trust, which was in control of both Pudu Mariyamman Temple and also the Kalyana Mandapam, had taken a decision to consecrate the said temple by conducting a Kumbabhishekam and the date was fixed at 22.04.2015. The FIR came to be registered in Crime No.241/2015 on 15.04.2015 by the Vellkovil Police Station under Section 107 of Cr.P.C.
- (4) The Inspector of Police stated that he had received information that fixing of the date for conducting consecration /Kumbabhishekam of the temple and opening of the Kalyana Mandapam had let a group of villagers who had a direct conflict with such a decision to convene a meeting and it is stated in the FIR that there is apprehension that there would be law and order problem if at all the Kumbabhishekam is to be proceeded with. Based on the said FIR, the impugned notice had been issued by the Sub Divisional Magistrate/Revenue Divisional Officer directing the petitioners herein who are in effective management of the Trust which runs both the temple and Kalyana Mandapam, to execute a bond under Section 111 of Cr.P.C.



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- (5) It is to be mentioned that there were earlier problems which necessitated a similar direction to be given in MC.No.1/2010. That came to be closed owing to the fact that, at that particular point of time, the suit in OS.No.265/2011 was pending and both the parties were engaged in such litigation. Situation changed after the judgment was delivered by the Sub Court in Dharapuram in the said suit.
- (6) It is complained by the learned counsel for the petitioners that by the impugned notice, only the petitioners had been directed to execute a bond and that the opposite party or the rival group have not been called upon to execute such a bond. Had the petitioners not complained about such an order, they could have consecrated the temple and opened up the Kalyana Mandapam, keeping peace in the said area, there is no complete information received or stated to the Court as to whether such Kumbabhishekam was done or not and whether the Kalyana Mandapam has been put to use. But, at any rate, it is only an order directing the execution of a bond, which bond shall be in force for a period of one year. However, even that is being objected to by the learned counsel for the petitioners who relied on the judgment of a learned Single Judge of this Court reported in 2002 [1] CTC 72 [Somasundaram and 10 others V. The Revenue Divisional Officer, Dharapuram and another]. The learned Single Judge had, in similar circumstances, held that if at all a direction is issued to execute a bond under Section 111 of Cr.P.C., then such a direction should satisfy what is called as "double test". Under Section 111 of Cr.P.C., the procedure as to how an order is to be made alone had been given and it had been stated that the order should be given in writing giving the substance of the opinion received and the amount of the bond to be executed and the term for which it is to be in force and the number of sureties and the class of sureties who are required. These are the very statements which has been affirmed in the said judgment, where again it had been reiterated that not only should there be a satisfaction with respect to the information received, but also a direction should be given with respect to the nature of the bond to be executed and also with respect to the class of sureties. It had also been laid down that truth of information necessitating directing giving of the bond should also be mentioned in the said order.
- (7) In the order now impugned, which had been issued by the Sub Divisional Magistrate / Revenue Divisional Officer, Dharapuram, it had been very clearly stated that as against the petitioners herein, the Inspector of Police had given a



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report and such report had been examined by the officer and he had actually used the word in tamil ''திருப்தியளிப்பதாகபடுவதால்'', which naturally means that he had applied his mind and came to a subjective satisfaction as to the requirement of executing the bond. He had also stated that such a bond is required to maintain peace in the said area. In vernacular version, he had stated that ''மேற்படி நபர்கள் பொது அமைதியை கெடுக்கும் விதத்திலும் அல்லது தொந்தரவு, நடவடிக்கைகளிலும், பொது அமைதிக்கும் பங்கம் விளைவிக்கும் வகையில் செயல்பட வாய்ப்பு, உள்ளதாகவும் நான் கருதுகிறேன்''.

- (8) Again, it is seen that the 1st respondent had expressed his clear opinion and that there is a possibility of outbreak of violence or rather, breach of peace. He had further stated that there would be law and order problem. Therefore, he had stated that since there are more than sufficient materials as against the named individuals in the said FIR, the present petitioners herein are to appear before him on 20.04.2015 at 4.00 p.m. and thereafter, they should execute a bond for maintaining peace for a period of one year and for that they should also bring the sureties and also a bond for a sum of Rs.1000/-. All the conditions as stipulated in the said provision of Section 111 of Cr.P.C., are therefore, been satisfied. This order is in conformity with the judgment relied on by the learned counsel for the petitioners reported in 2002 [1] CTC 72.
- (9) I find no reason to interfere with the said order.
- (10) Accordingly, the Criminal Original Petition stands dismissed confirming the order dated 17.04.2015 passed by the 1st respondent. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Sub Divisional Magistrate/
Revenue Divisional Officer
Dharapuram, Tiruppur District.



2. The Inspector of Police
Vellakovil Police Station
Kangayam Taluk
Tiruppur District.

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3. The Public Prosecutor
High Court, Madras.

+1cc to M/s.N.Manokaran, Advocate, S.R.No.47140

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SJ(CO)
RGA(01/10/2021)