



CRL OP(MD). No.15523 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.03.2023

Pronounced on : 27.07.2023

CORAM:

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD).No.15523 of 2022

in

CrI.M.P.(MD)No. 10193 of 2022

- 1.Shaya Vijayan
- 2.Arockiya Dinesh Raja @ Dinesh
- 3.R.Antony Selvan
- 4.Joseph Kalaiselvan @ Kalaiselvan
5. Joseph Alton

... Petitioners

Vs

- 1.The Sub Divisional Executive Magistrate (First Class)
cum the Revenue Divisional Court,
Tiruchendur, Thoothukudi District.
- 2.The Inspector of Police,
Thattarmadam police station,
Thoothukudi District.

... Respondents

Prayer: Petition filed under Section 482 of Criminal Procedure Code to call for the entire records pertaining to the proceedings in M.C.No. 435/2022 pending on the file of the first respondent and quash the same as illegal.



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For Petitioners : Mr.R.Aravindraj

For Respondents : Mr.S.Manikandan
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed call for the entire records pertaining to the proceedings in M.C.No.435/2022 pending on the file of the first respondent and quash the same as illegal.

2. The facts in brief is that the Inspector of Police, The Thattarmadam police station, sent a communication / information to the respondent stating that trouble exists between A and B party over maintenance and construction of graveyard in Naduvakurichi village. For the past 1 ½ years the above said trouble exists between them. Because of the above said enmity, on 02.05.2023 when one Raja Reega Mary died, one of the parties made objections in burying the dead body. Because of the above said continuous trouble, breach of peace is apprehended.



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3. On the basis of the above said information, the respondent thought it fit to initiate action under Section 107 of Cr.P.C., against both the parties in M.C.No.435 of 2022, summon was issued dated 12.08.2022. Challenging the above said summon, this petition is filed.

4. The ground on which this petition came to be filed is that the above said summon does not satisfy the requirement of law as noted above. Apart from that it is also stated that it is purely a civil issue between the parties over cemetery of Annal Nagar RC Church and because of the above said issue, there was no disturbance to the public. The local authority only passed a resolution to establish cemetery and construct a small church in the said premises. The third ground is that a similar proceeding which was initiated in M.C.No.304 of 2022 was also quashed by this Court in CrI.O.P(MD)No.12156 of 2022 by the order dated 07.07.2022.

5. Let us straightaway go to the order passed by this Court in CrI.O.P(MD)No.12156 of 2022, leaving the first two grounds for the time being. The above said petition was filed by the third respondent



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namely Arockiya Jegathees J @ Jegadeesh, challenging the summon dated 30.05.2022 in M.C.No.304 of 2022 on the ground that the above said guidelines has not been followed while initiating action and sending the summons. The above said order was passed on 07.07.2022. After complying the statutory formalities and the guidelines issued in the above said case, the present proceeding has been initiated by the summon dated 12.08.2022. So the argument of the petitioner that the above said procedure was not properly followed and the present subject matter of the proceedings was also to be quashed so this ground is not now available to the petitioner.

6. With regard to the other ground of statutory formalities and subjective satisfaction of the respondent, with regard to the issue, the order in the summon itself deals elaborately about the issue between the two groups of people. He has also recorded the subjective satisfaction. Eventhough it was stated that there are several disputes between the two groups of people over establishment of cemetery, it is assumed that when the dead body of a particular person was not permitted to burry in the cemetery naturally, it has caused public unrest. Subjective satisfaction



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has been properly recorded by the respondent. Eventhough, separate order has not been passed by the respondent, but reading of the summons indicate the above said subjective satisfaction criteria.

7. Considering the above it is not a fit case to quash the proceedings once again the petitioner has been well informed about the issue. He should appear before the respondent and work out their grievance through itself. Absolutely no reason to quash the proceedings, let the proceedings be completed within a period of two months from the date of appearance of the parties.

8. With the above said direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition stands closed.

27.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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G.ILANGO VAN, J.

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To

- 1.1.The Sub Divisional Executive Magistrate (First Class)
cum the Revenue Divisional Court,
Tiruchendur, Thoothukudi District.
- 2.The Inspector of Police, Thattarmadam police station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

Pre-Delivery Order made in

CRL OP(MD).No.15523 of 2022

in

CrI.M.P.(MD)No. 10193 of 2022

Date: 27.07.2023