

(2022) 10 KAR CK 0007

In the Karnataka High Court

Case No : Writ Petition No. 20339 Of 2022 (GM-RES)

Gaffar Ahamed & Others

APPELLANT

Vs

Deputy Commissioner Krishnaraja, Boulevarad Road, Mysore
District, Karnataka-571207 & Others

RESPONDENT

Date of Decision : 14-10-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 107

Citation : (2022) 10 KAR CK 0007

Hon'ble Judges : M. Nagaprasanna, J

Bench : Single Bench

Advocate : Rahamathulla Kothwal, M. Vinod Kumar

Final Decision : Disposed Of

Judgement

M.Nagaprasanna, J

1. The petitioners are before this Court calling in question an order dated 07.10.2022 which declines to permit the petitioners to celebrate Eid-Milad in Periyapatna Town, Mysore District on the ground that against the petitioners an order under Section 107 of the Cr.P.C. was in operation.

2. Heard Sri.Rahamathulla Kothwal, learned counsel appearing for the petitioners and Sri. M. Vinod Kumar, learned AGA appearing for the respondents.

3. The petitioners claim to be the President and Secretary of Masjid-e-Jannath-UI-Firdose at Periyapatna Town, Mysore and for the conduct of celebration of Eid-Milad had represented to the Deputy Commissioner, Mysore, seeking permission and protection for celebration of the said festival. This comes to be rejected by the Deputy Commissioner on 07.10.2022, on the ground that an order under Section 107 of the Cr.P.C., is subsisting against the petitioners and therefore, permission cannot be granted.

4. Learned counsel appearing for the petitioners would take this Court through a

document appended to the petition, which is an order passed by the learned Sessions Judge, Mysore in CrI.R.P.No.93/2022, which has quashed the order passed by the competent authority under Section 107 of the Cr.P.C. The order is passed on 27.05.2022. The Deputy Commissioner has passed an order on 07.10.2022, which is long after the order in CrI.R.P.No.93/2022. Therefore, the primary reason rendered for denying such celebration, is erroneous and contrary to the records.

5. The petitioners have represented to the Deputy Commissioner on 10.09.2022, the order impugned is passed on 07.10.2022 and the order is passed on an erroneous premise as afore-observed. It is now for the Deputy Commissioner to reconsider the matter, strictly in consonance with law, bearing in mind the contents of the representation and to pass appropriate orders on or before 17.10.2022, the date on which the petitioners are to take out celebrations and intimate the same to the petitioners.

6. Learned Additional Government Advocate at this juncture, while placing a report, for a perusal of this Court would contend that there is serious dispute between two warring factions in Periyapatna Town with regard to the subject celebration. If that be so, the Deputy Commissioner shall bear in mind the said report, as well, while passing orders afresh.

7. Learned Additional Government Advocate would further submit that the order under Section 107 of the Cr.P.C. is quashed by the learned Sessions Judge on technical grounds and therefore, the Deputy Commissioner was right in observing about the order under Section 107 of the Cr.P.C. The submission is noted, only to be rejected, as the order of the learned Sessions Judge, which has quashed the order passed under Section 107 of the Cr.P.C., is not challenged by the Government before any superior judicial fora. However, the submission of the learned Additional Government Advocate with regard to the report concerning two warring factions merits acceptance.

8. Therefore, the Deputy Commissioner shall pass appropriate orders on the representation dated 10.09.2022, bearing in mind the said report which depicts dispute between two warring factions.

9. With the aforesaid observations, the petition stands disposed.