

In Re: Gurusawmi Nadar and ors.

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Court : Chennai

Decided On : Jan-02-1912

Reported in : (1912)22MLJ251

Appellant : In Re: Gurusawmi Nadar and ors.

Judgement :

ORDER

Abdur Rahim, J.

1. There is absolutely no warrant for the order of the Sub-Divisional Magistrate. There is no evidence to show that the accused were likely to commit a breach of the peace or disturb the public tranquility or do any act, which would probably occasion a breach of the peace. All that is found is that on a previous occasion, about a year ago, the Nadars asserted their right to carry palkis through the public street on occasions of marriage, and there was a breach of the peace as some people in the village opposed the Nadars taking palkis in procession on the ground apparently of the Nadars' caste which, in their opponents' estimation, is not high enough to justify their using palkis during marriage. Nothing particular happened at the time the present proceedings were instituted, except that the marriage season was fast approaching and the police and the Sub-Divisional Magistrate were apprehensive that if the Nadars insisted on their right as before and the other party opposed them there might be a disturbance. It is not even shewn that the accused had any marriages to celebrate in their family, and that they were preparing to

carry palkis in procession. All that is alleged against them is that they are leading men of their community. Supposing that some of the Nadars or the accused themselves wanted this year to take palanquins in procession through streets, they would have every right to do so and if any person wanted unlawfully to oppose them in the exercise of such right, it is they that ought to be bound then and not persons who were lawfully exercising or wanted to exercise their ordinary right. It is the duty of the Sub-Divisional officer who is responsible for the peace of his division to use his authority for the protection of persons who seek to exercise a right which the law allows them and to restrain persons who threaten to obstruct the exercise of such right,' and for this purpose to enforce, if necessary, the provisions of Section 107, Criminal Procedure Code, not against the former but against the latter. I set aside the order under Section 107, Criminal Procedure Code, and the bonds executed by the accused will be discharged.

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