

ALLEGED BREACH OF UNDERTAKING

:(6):

Mr. C. D. Nayagam's Affidavit

Madras, June 13.

The application by the Police against Mr. C. D. Nayagam asking him to show cause why his bail bond should not be cancelled, was taken up this morning by Mr. K. Kunnikrishna Nair, Acting Chief Presidency Magistrate, Egmore for further hearing.

Mr. Nayagam, it might be recalled, was arrested by the Police on June 4 in connection with the Anti-Hindi Campaign, and later released on bail.

Mr. S. G. Rangaramanuja Mudaliar, Counsel, filed an affidavit on behalf of Mr. Nayagam, denying the allegations against him by the Police.

He next gave a copy of the same to the Prosecuting Inspector.

The following is the text of the affidavit:—

"I, C. D. Nayagam, son of C. Nellanayagam Pillay, Hindu, aged about 59 years, Retd. Deputy Registrar of Co-operative Societies, residing at Usman Road, Theyagaroyanagar Madras, do hereby solemnly and sincerely affirm and state as follows:

"I am the respondent in the present application filed on behalf of the Crown for the cancellation of my bail, and for remanding me to custody, pending the disposal of the proceedings in Crime No. 788 of 1938. I have read the two reports filed in Court by Inspector Arunagiri Mudaliar in support of the said application, and I have also read the notice dated 8th June, 1938 requiring me to show cause against the said application being granted.

"I admit that on the 4th June, 1938, I gave to this honourable Court an undertaking orally that pending the investigation and disposal of this case, I would refrain from carrying on the Anti-Compulsory Hindi propaganda in any manner. I have since then carried out my said undertaking and had done nothing to contravene the terms hereof. Consequent upon my arrest and in support of the undertaking given by me to this Court, as aforesaid, Mr. Sivananda Adigal was appointed by the Anti-Compulsory Hindi Committee at Madras to take my place in the said movement. Since then, I have had no part lot either in the management in the activities of the said committee and of its members. The allegations made in the Police Report dated 8th June, 1938, filed in support of this application amounting in effect to state that I should now be remanded to custody, because I am the owner of a plot of ground on premises in Venkatanarasimha Road, where at the Madras, the Anti-Compulsory Hindi Committee is situated and being the said owner, I should be deemed to be cognisant and therefore to have acquiesced in the several alleged activities of the said Committee and of its members and leaders as set out in the said report.

"I admit I am the owner of the said land and premises but I state that the said premises were lawfully demised by me on lease to the Secretary of the Anti-Compulsory Hindi Committee at Madras some time in May, 1938, nearly a month prior to my arrest in connection with these proceedings. These still subsists, and the said committee, as tenant, is lawfully occupying the said premises. Since 4th June, 1938, when this honourable Court was pleased to enlarge me, I have had nothing to do with the said premises except that I continue to pay them rent and that I have paid my share in the alleged expenses of the picketing near the Premier's house being confined to what I have seen from the newspapers.

dated 8th June, or in the march of pickets and volunteers from the said premises, or in any other activity on the part of the leaders, members of volunteers of the aforementioned committee.

"I only desire to urge before this Honourable Court that in the absence of any lawfully promulgated order by or on behalf of the local Government declaring that Anti-Compulsory Hindi Committee at Madras to be an unlawful association with in the meaning of the Criminal Law Amendment Act, and in the absence of any lawful orders served on me as the owner to evict the said committee from the said land or premises in consequence of such declaration, I have committed no offence under any law for the time being in force in either continuing to own the said premises or in suffering the existing tenant lawfully seized of the premises to continue to occupy it as tenant.

"Adverting to the allegations made in the Police report dated 10th June, 1938 filed herein, I admit that Stalin Jagadeesh has been residing in my house since 3rd May, 1938. But, I deny that since 4th June 1938, when, I gave my undertaking as aforesaid to this Honourable Court, I have done any act in support of it, in furtherance of the said Stalin Jagadeesh's objects or activities. This youngman is a member of a family with whom I have been friends for nearly two generations and when in May, 1938, he came to Madras and desired a place for lodging, I accommodated him in my house, merely as a matter of ordinary social courtesy. He still continues to occupy a separate room for himself in my residential house. But, since 4th June, 1938, I have had no manner of contact or conference with him except, occasionally, to inquire about his physical state.

"It is not true to say that since 4th June, 1938 any processions have been marched out in connection with the Anti-Hindi campaign with or without the said Jagadeesh in such processions and or for any purpose whatsoever. I deny as false the further allegation made by the police that I have, since the date material to this application, done any act which might even be construed as giving shelter to Jagadeesh's friends and sympathisers. His mother and niece came to Madras about a few days ago just, in order to inquire about his health and they returned to Peralam the next day. They no doubt, shared my hospitality for the few hours they were in the city. I submit, however, that in my suffering Jagadeesh still to continue in my house, and in extending the members of his family ordinary hospitality under my roof for a day or night when they happen to visit him at Madras, I have done nothing in violation of the terms of the undertaking given by me to this Honourable Court on 4th June, 1938.

"I deny that since the day I made the said undertaking, either Mr. Sivananda Adigal or any other leader of the Anti-Hindi movement has visited me in any house either alone or in company with any one else to confer with me in connection with the said movement or with a view to organise a march of volunteers as alleged.

"I am totally innocent of the allegations made in paragraph 3 of the Police report dated 10th June, 1938, the only knowledge I have about the alleged black-flag demonstrations therein referred to and the alleged picketing near the Premier's house being confined to what I have seen from the newspapers.

"I deny as totally false the allegations set out in the concluding paragraph of the Police Report dated 10th June, 1938, and I respectfully beg to assure this Honourable Court that having given it, the undertaking, as I did on 4th June, I shall continue to keep my word as my bond and that I shall, pending disposal of these proceedings, still refrain from carrying on the Anti-Compulsory Hindi propaganda in any manner in contravention of my said undertaking.

"For the reasons aforementioned, I respectfully pray that this Honourable Court may be graciously pleased to dismiss the present application filed on behalf of the Crown.

The Court:—Have you seen the counter?

Prosecuting Inspector:—I have just had it.

Mr. S. G. Rangaramanuja Mudaliar represented to the court that in any case the case will be taken up on 17th. It may be heard then.

The Prosecuting Inspector, after some consultation, said that 15th may be fixed for the hearing.

The Court:—Why? What difference does it make?

His Worship then fixed 17th as the date for hearing the application, on which date the case against Mr. Nayagam is posted.

Yesterday's Proceedings

CASE ADJOURNED TO 24TH JUNE

Madras, June 18.

The application filed by the Police against Mr. C. D. Nayagam asking him to show cause why his bail bond should not be cancelled, as in their opinion, he has violated the terms of the undertaking given to the Court, came up yesterday (Friday) for further hearing before Mr. K. Kunnikrishna Nair, Acting Chief Presidency Magistrate, Egmore.

Mr. S. G. Rangaramanuja Mudaliar, appearing for Mr. Nayagam represented that in the statement filed by him (Mr. Nayagam), he had denied to have violated the terms of the undertaking as alleged by the Police application. Though the undertaking given by him, Counsel stated, curtailed his liberties, yet he still kept up to it.

As a matter of fact, the Counsel added, the Commissioner of Police released Mr. K. M. Balasubramaniam, who was arrested yesterday in connection with the Anti-Hindi Movement, on a much simpler undertaking and on a smaller sum of Rs. 50 on his own bond and a surety for a like sum, and that he should not continue abetting picketing by word or deed. Whereas, in this case, he said, it was so wide and all embracing that it enabled the Police to take out an application to cancel the bond. He, therefore requested the Court to modify the undertaking on the same terms as those of the Commissioner's. The Commissioner of Police, he further stated, had no objection to Mr. K. M. Balasubramaniam attending the meetings and making speeches thereat.

The Prosecuting Inspector:—Mr. Stalin Jagadeesh is still being sheltered in Mr. Nayagam's house.

The Court:—Has that any connection with picketing?

The Prosecuting Inspector left the matter to the discretion of the Court.

His Worship said that he could not interfere with the order already passed by the Chief Presidency Magistrate, and, therefore, could not modify it. He allowed Mr. Nayagam to continue the bail and the