

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.26545 of 2015
and
M.P.Nos.1 & 2 of 2015

G.Nesathamilan @ Pitchapillai

... Petitioner

Vs

1. The Government of Tamil Nadu,
rep. By its Secretary,
Home Department,
Fort St.George,
Chennai-600 009.
2. The District Collector,
Villupuram District,
Villupuram.
3. The Sub Divisional Magistrate and
Revenue Divisional Officer,
Kallakurichi,
Villupuram District.
4. The Superintendent of Police,
Vilupuram District,
Villupuram.

5. M.Sakthivel
(R-5 impleaded as per Order dated
28.10.2015 made in M.P.No.2 of 2015)

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the

impugned order in ROC No.2596/2015/A3 (Prohibitory order under section 144 Cr.P.C.), dated 16.8.2015 passed by the third respondent herein, quash the same as illegal and direct the respondents to grant policed protection to conduct "Car festival of Mariyamman Temple" situated at Pandian Kuppam village, Pandiyan Kuppam, Chinna Salem, Villupuram District from 30.08.2015 to 08.09.2015, to secure the ends of Justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader -R1 to 3

O R D E R

A Prohibitory Order has been passed under Section 144 Cr.P.C., dated 16.08.2015 by the Revenue Divisional Officer, third respondent herein, in and by which, conducting of "Car festival in two temples, viz., Mariyamman Koil in Adi Dravidar colony and Solaimman Koil, situated in Caste Hindus area, in Pandian Kuppam village, Chinna Salem taluk, has been prohibited by invoking Section 144(1) and (3) of Cr.P.C. while observing as under in para 3:

"3. Whereas, the Deputy Superintendent of Police in his letter reported that since no amicable settlement has been reached so far between the two communities on the issue and by analysing the present situation, a serious breach of the peace leading to dispute by the public tranquillity of Pandiyan Kuppam village and that are prescribed public peace and tranquillity, it is essential that the conduct of Car Festival in both the temples and all related activities in the areas of Pandiyan Kuppam village, Chinna Salem taluk, should be prohibited under Section 144 (1) and (3) of Cr.P.C."

2. Aggrieved over the above said order, the petitioner, who claims hailing from Scheduled Caste and devotee of Mariyamman,

has come forward with the present writ petition, seeking to quash the same and consequently, to direct the respondents to provide police protection to conduct the Car festival of Mariyamman temple.

3. According to the petitioner, he is belonging to Scheduled Caste and residing in Pandiyankuppam village. It is stated that Mariamman Temple situated in Pandiyankuppam village, which is the only worship of the people belonging to scheduled caste community and every year, they used to conduct 'car festival' of the said temple. Likewise, 'a car festival' was scheduled to be conducted from 06.08.2015 to 13.08.2015. However, it is alleged that they were discriminated by the people belonging to Caste Hindus and with the connivance of civil administrators and local police, they had prevented Dalits from participating 'car festival of Mariyamman temple. The grievance of the petitioner is that the respondents have not provided police protection to conduct the festival and however, passed the impugned order invoking Section 144 Cr.P.C. Hence, the writ petition.

4. During the pendency of the writ petition, one M.Sakthivel, who claims hailing from backward community has filed an impleading petition and by order, dated 28.10.2015, he was ordered to be impleaded as a party-respondent to the writ petition. In his petition, he has stated that all the community people are worshipping the said temple based on their customary rights and there were group clashes between two groups and though the officials took effective steps to resolve the issues, which ended in vain. While so, an invitation was published in the village by the writ petitioner that Mariyamman car festival would be celebrated on and from 6.8.2015 to 13.08.2015 and in this regard, a representation was made before the respondents and thereafter, a peace committee meeting was convened, wherein no final decision was taken and in such a situation, impugned prohibitory order was passed by the third respondent.

5. A counter affidavit has been filed by the 3rd respondent, wherein, it is stated that a peace meeting was conducted on 9.8.2015, wherein, both the groups had participated, but no amicable solution was arrived. Thereafter, the third respondent obtained opinion of police and revenue officials on the issue. The Deputy Superintendent of Police, Kallakurichi, in his letter, has reported that since no amicable settlement was reached between two communities, there would every possibility in breach of peace and public tranquillity likely to occur in

Pandiyankuppam village and in order to maintain law and order, it would be essential to prohibit car festival. Based upon the said report, the third respondent issued a prohibitory notice, dated 9.8.2015 to take a decision to stop conduction of car festival. However, the scheduled caste people flouted the prohibitory notice and they themselves announced car festival would be conducted as scheduled. Meanwhile, in adjacent village, called Seshasamudram, which is 25 km away from Pandiankuppam village, on 15.08.2015, a communal clash between the caste Hindus and scheduled caste people took place in respect of conduction of car festival, wherein, the riots indulged in stone pelting and hurled petrol bombs, by which, 8 policemen and 3 village assistants got injured and also 5 houses belonging to scheduled caste community were burnt. Due to the said clash, there was a severe breach of peace and tranquillity and the situation was abnormal. Keeping in view of this, since in Pandiyankuppam village also, a dispute over conduction of car festival has been prevailing since 2012 onwards between these two communities, the third respondent has sorted out the issue by issuing prohibitory order on 16.08.2015 under Section 144(1) and (3) of Cr.P.C. to maintain law and order and to prevent breach of public peace and tranquillity. With these averments, the third respondent sought for dismissal of the writ petition.

6. A counter affidavit has also been filed by the 4th respondent, wherein, while supporting the prohibitory order passed by the 3rd respondent, it is stated that after considering the pros and cons of the issue involved and after failure of the peace committee meeting, in order to prevent communal clash between two communities, the third respondent has rightly passed the prohibitory order and therefore, the allegations made by the petitioner that the notification violates principles of natural justice and that the authorities connived with the caste Hindus are untenable. Hence, the 4th respondent has prayed for dismissal of the writ petition.

7. Heard the learned counsel appearing for the parties and the learned Additional Government Pleader for the respondents 1 to 4.

8. When the writ petition came up for consideration before this Court on 28.10.2015, this Court directed the Sub Divisional Magistrate and the Revenue Divisional Officer, Kallakurichi, Villupuram District/third respondent herein, to convene a meeting of the prominent members belonging to both the

communities for arriving at an amicable settlement between both the parties for the conduct of the car festival.

9. Pursuant to the above direction, it appears that the third respondent has convened a peace committee meeting on 19.11.2015 and submitted a report, wherein, it has been stated that no amicable settlement has been arrived at between two group communities.

10. While so, the Tahsildar, Chinnasalem has reported in his letter dated 19.11.2015 that the situation in Pandiyankuppam village is not stable and if the car festival is conducted either in Solaiamman temple by the caste Hindus or in Mariyamman temple by the scheduled caste people, there might be every possibility of breach of public peace likely to occur in connection with the disputes. Considering the same, the third respondent has once again passed the prohibitory order invoking Section 144 of Cr.P.C., on 21.11.2015 prohibiting the conduct of car festival and other activities in the ares of Pandiyankuppam village from 21.11.2015 to 19.01.2016.

11. It is not in dispute that a dispute between Caste Hindus and Adi Dravidar community has been prevailing since 2012 onwards in regard to conduction of Car festival both in respect of Solaiyamman temple and Pandiankuppam village. While, so, the scheduled caste people intended to conduct car festival separately in respect of Mariyamman temple, which was highly objected by the Caste Hindus. It is also not in dispute that the peace committee meetings held by the Revenue and Police Officials have ended in vain and there was no amicable settlement between the parties. Further, it is reported that in adjacent village, called Seshasamudram, which is 25 km away from Pandiankuppam village, on 15.08.2015, a communal clash between the caste Hindus and scheduled caste people took place in respect of conduction of car festival, wherein, the riots indulged in stone pelting and hurled the petrol bombs, by which, 8 policemen and 3 village assistants got injured and also 5 houses belonging to scheduled caste community were burnt. Due to the said clash, there was a severe breach of peace and tranquillity and the situation was abnormal. Further, the Village Administrative Officer lodged a complaint which was registered as F.I.R. in Crime No.304 of 2015 against the schedule caste people for the offences under Sections 147, 188, 353 and 506(i) IPC for the allegations that the Village Administrative Officer was condemned strongly and was abused

verbally when he tried to prevent the arrangement intended for the conduct of car festival. The Tahsildar, Chinnasalem has also reported that the situation in Pandiyankuppam village is not stable and if the car festival is conducted, there would be every possibility of public peace likely to occur. Taking note of all these facts, in order to maintain the public peace and tranquillity, the 3rd respondent has rightly passed the prohibitory order.

12. Section 144 Cr.P.C. is intended to serve public purpose and protect public order. This power vested in the executive is to be invoked after the satisfaction of the authority that there is need for immediate prevention or that speedy remedy is desirable and directions as contemplated are necessary to protect the interest of others or to prevent danger to human life, health or safety or disturbance of public tranquillity or a riot or an affray. These features must co-exist at a given point of time in order to enable the authority concerned to pass appropriate orders.

13. Considering the factual and material aspects placed on record, I find that the authority has satisfactorily come to the conclusion that there is every possibility of breach of peace and public tranquillity likely to take place if the Car festival of Mariyamman Temple is allowed to be conducted in Pandiyankuppom village and hence, in order to maintain law and order and to prevent breach of peace and tranquillity, the third respondent has rightly passed the impugned order invoking Section 144 Cr.P.C., which in my considered view, does not suffer from any infirmity to interfere with the same. In such view of the matter, I am also of the view that there is no need to provide police protection as sought for by the petitioner to conduct the Car festival. It is settled law that normally the Courts should not interfere with matters relating to law and order which is primarily the domain of the concerned administrative authorities. They are by and large the best to assess and handle the situation depending upon the peculiar needs and necessities within their special knowledge. After assessing the factual situation prevailing in Pandiyankuppam village over the issue of conducting Car festival, the 3rd respondent has passed the impugned order. Therefore, this Court does not find any scope to interfere with the same.

For the foregoing discussion, the prayer sought for by the petitioner in the Writ Petition cannot be granted. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected MPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Home Department,
Fort St.George,
Chennai-600 009.
2. The District Collector,
Villupuram District,
Villupuram.
3. The Sub Divisional Magistrate and
Revenue Divisional Officer,
Kallakurichi,
Villupuram District.
4. The Superintendent of Police,
Vilupuram District,
Villupuram.

+1cc to Mr.R.Sankarasubbu, Advocate, S.R.No.65409
+1cc to Mr.K.Balu, Advocate, S.R.No.65410

W.P.No.26545 of 2015

VGI (CO)
CA(15/12/2015)

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