



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P(MD) No.5298 of 2015 and
M.P(MD)No.1 of 2015

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Relax Recreation Club,
D.No.4/26, Singapore, Archampatti,
Rachandar, Tirunelveli Village,
Kulithalai Taluk,
Karur District. Rep by its Secretary
P.Kannan

.. Petitioner

Vs.

1. The District Superintendent of Police,
Karur District.

2. The Deputy Superintendent of Police,
Kulithalai, Karur District.

3. The Inspector of Police,
Lalapettai Police Station,
Karur District.

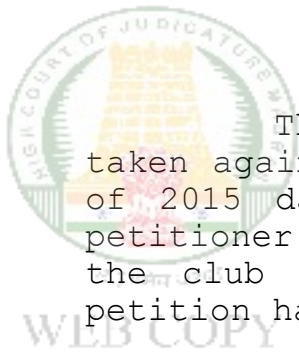
4. The Inspector of Police,
Thogamalai Police Station,
Karur District.

.. Respondents

Prayer: Writ Petition is filed under section 226 of Constitution of India praying this Court for issuance of Writ of Mandamus, to direct the respondents to permit the functioning of the Petitioner Club as per this Court Order dated 01.03.2012 passed in W.P(MD)No.1702 of 2012 without any interference except under due process of law.

For Petitioner : S.Ramu

For Respondents : Mr.R.Kathikeyan
Additional Government Pleader



ORDER

The petitioner is the recreation club. Action has been taken against the petitioner by registering the case in Crime No.78 of 2015 dated 12.03.2015 on the ground that the members of the petitioner club are carrying on gambling activities. Accordingly, the club was closed. Seeking to reopen the same, the present petition has been filed.

2. The counsel for the petitioner submitted that the petitioner's club will not indulge in gambling. The petitioner club has been closed for more than two months. The mere pendency of the criminal case cannot be a bar for the petitioner club.

3. The learned Additional Government Pleader on instructions, would submit that based on the complaint given by the general public, the action was taken, since the petitioner club was involved in gambling, it was duly closed.

4. What the petitioner seeks is to permit the respondents towards the functioning of the club. The learned counsel for the petitioner has also made reliance upon the order passed by this Court in *W.P(MD)No.1702 of 2012*, in which this Court was pleased to pass the following order:-

" The issue is covered by the earlier order of this Court in the matter of Kalaimagal Recreation Club reported in 2009(3) T.N.C.J 34(Mad) (MB). The said Writ Petition was disposed of by issuing certain directions. Therefore, I am inclined to issue the following directions to protect the interest of the club as well as to enable the police to take action in case of indulging in illegal activities.

(i) The petitioner and the members of the club are entitled to carry on lawful activities within their premises and there should not be any interference from the police authorities, so long as their activities are not in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act 1930;

(ii) In normal circumstances, there should be no interference in the lawful functioning of the clubs by the police. It is not permissible for the police to enter the club premises as a routine measure, so long as the clubs are functioning within the frame work of law;

(iii) If the police authorities have specific information or reasonable doubt that the activities carried on by the club or its mem-



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bers are not in accordance with law or they indulge in unlawful activities in violation of the provisions of the public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930 or any other enactment, it would be open to them, after recording reasons in the General Diary maintained in the police station, to proceed to enter the club premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;

(iv) While exercising the powers conferred on the police authorities, they should follow the mandatory provision as contained in Section 5 of the Tamil Nadu Gaming Act, 1930/Public Gambling Act, 1867.

(v) It is always open to the club or its members to challenge the action taken by the police, if it was not in accordance with law;

(vi) In case the police authorities were of the opinion that a situation has arisen to suspend the operation of the club in exercise of the powers conferred, they have to issue an order in writing. When, there is no authority granted to the police to issue an order of suspension orally, they are not entitled to pass such oral orders; and

(vii) Before passing orders for the purpose of closure of the club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.

The Writ Petition is disposed of with the above directions. No costs."

5. Though the order has been obtained on 01.03.2012, there is nothing to indicate that the procedure contemplated thereunder has been complied with. A mere filing of FIR, can not be termed as an appropriate compliance of the order passed by this Court. There is no material to hold that the members of the petitioner club has been complied with and the recent order has been passed.

6. Accordingly, the Writ Petition stands allowed. The respondents are directed to permit the petitioner to run the club. However, it is made clear that it is well open to the respondents



to take appropriate action in accordance with law including the closure of the petitioner club by following the procedure if gambling activities are carrying on. Consequently, connected Miscellaneous Petitions is closed.

Sd/
Assistant Registrar(AS)

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Sub Assistant Registrar

To

1. The District Superintendent of Police,
Karur District.
2. The Deputy Superintendent of Police,
Kulithalai, Karur District.
3. The Inspector of Police,
Lalapettai Police Station,
Karur District.
4. The Inspector of Police,
Thogamalai Police Station,
Karur District.

+One cc to M/s.S.Ramu, Advocate, SR.No.26601

+One cc to The Special Government Pleader, SR.No.26758

pmu

RL/7c - 5/6/2015

W.P(MD) No.5298 of 2015

01.06.2015