

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:02.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.42378 of 2016 & W.M.P.No.36286 of 2016

Kanagaraj
Partner,
Kongu Recreation Club,
No.3/2, Nochikatttu Valasu,
Lakapuram Pudhur, Erode - 63. ... Petitioner

Vs.

1. The Superintendent of Police,
Office of Superintendent of Police,
Erode.
2. The Inspector of Police,
Erode Taluk Police Station,
Erode. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents or their men or agents from any manner interfering with the affairs of the Kongu Recreation Club, 3/2, Nochikadu Valasu, Lakapuram Pudhur, Erode District or its members including the facilities provided for playing various games including the game of playing Rummy not involving any element of gambling.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr. R.S.Selvam,
Government Advocate

ORDER

This Writ Petition has been filed to forbear the respondents or their men or agents from any manner interfering with the affairs of the Kongu Recreation Club, 3/2, Nochikadu Valasu, Lakapuram Pudhur, Erode District or its members including the facilities provided for playing various games including the game of playing Rummy not involving any element of gambling.

2. The only ground which has been raised by the learned counsel for the petitioner is that the police authorities under the guise of investigation/enquiry, without any basis, suddenly come and raid and make the members to put great hardship. According to the petitioner, they have been running this Club with unblemished records. They are following the Rules and Regulations and they should not be disturbed under the guise of investigation.

3. The learned Government Advocate submitted that that Rummy is a gambling and on 17.09.2016, they found that some of the members of the petitioner's club were indulging in gaming activity.

4. Heard Both sides.

5. As rightly pointed out by the learned counsel for the petitioner, RUMMY is not gambling activity. As per the judgment of the Hon'ble Supreme Court reported in AIR 1968 SC 825(1) (The State of Andhra Pradesh vs K. Satyanarayana) RUMMY is not a gambling activity. However, the learned counsel would point out that the right to conduct a club is a legal right, but at the same time, when there is no violation of law, they should not be unnecessarily harassed.

6. In similar circumstances, this, Court by Order dated 21.10.2016 in WP No.35710 of 2016 passed conditional order. Even according to the respondent, except the one incident, nothing has been made out. This is the Institution, running with unblemished records. Therefore, suffice to state that the right of the police to investigate, verify and find out, only if there is any malpractice is there, but at the same time, there should not be any harassment.

7. In view of the above, the writ petition is disposed of with the following conditions :

(i) The petitioner' club shall not indulge in any other illegal activity other than playing Rummy (13 cards) with or without stakes by its members and guests;

(ii) If there is any evidence of gambling in some other way, the respondent police have a right to enter the premises of the petitioner' club, inspect and take further action as per law;

(iii) The respondent police are advised not to disturb the petitioner' club frequently under the guise of inspection as it would disturb the peace and harmony of the petitioner' club;

(iv) The petitioner and the members of the petitioner's club are entitled to carry on their 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;

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

(vi) If the police authorities have specific information or reasonable doubt that the activities carried on by the club or its members 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;

(vii) 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;

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

(ix) In case the Police authorities are 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

(x) 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.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Superintendent of Police,
Office of Superintendent of Police,
Erode.
2. The Inspector of Police,
Erode Taluk Police Station,
Erode.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.71399

+1cc to the Government Pleader, S.R.No.71669

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W.P.No.42378 of 2016

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B.RAJENDRAN, J.,

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