

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.25588 of 2017 and
W.M.P.No.26979 of 2017

K.Balakumaran

... Petitioner

Vs.

1.The Superintendent of Police,
Coimbatore District.

2.The Inspector of Police,
Mathukarai Police Station,
Coimbatore District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, forbearing the respondents from interfering with the peaceful conduct of business (i.e.) cross massage in the name and style of "Kayal Day Spa" at 1/888, Mache Gounder Palayam, L & T Bye-pass Road, Poonthottam, Eachenarri, Coimbatore.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.S.N.Parthasarathi,
Government Advocate

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus forbearing the respondents herein from interfering with the peaceful conduct of business (i.e.) cross massage in the name and style of "Kayal Day Spa" at 1/888, Mache Gounder Palayam, L & T Bye-pass Road, Poonthottam, Eachenarri, Coimbatore.

2.According to the petitioner, the business is carried on in accordance with law from 27.07.2017. The petitioner has also stated that the local Inspector of Police and Police men are frequently coming and interfering with the business activities and thereby, causing hardship to the customers coming to the premises for Traditional Ayurveda Massage. In order to prevent hardship, the petitioner has come forward with the present Writ Petition.

3.This Court, in similar circumstances, following the ratio laid down by this court in the judgment report in 2015(1) MLJ 308 [Masti Health and Beauty Private limited & Others V. The Commissioner of Police, Chennai City], disposed of the Writ Petition in W.P.No.9380 of 2016, by order dated 14.03.2016, by directing the respondents-police to comply with the directions/conditions imposed in paragraph 67 of the order in the judgment reported in 2015(1) MLJ 308 (cited supra) and further made it clear that the petitioner therein under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order.

4.Mr.S.N.Parthasarathi, learned Government Advocate appearing for the respondents submitted that since this Court had already passed orders in similar Writ Petitions, the same order can be passed in this Writ Petition also.

5.Since the issue involved in the present Writ Petition is identical to the issue involved in W.P.No.9380 of 2016, it is relevant to extract para 67 of the order passed in 2015(1) MLJ 308 (cited supra), which reads as follows:-

"67.In the light of the above, all the writ petitions are disposed of to the following effect :

(i) The respondents shall not, as a matter of routine and without any basis, conduct any raids and interfere with the business carried on by the petitioners;

(ii) In specific cases where the police have reasonable grounds to believe that an offence punishable under the Immoral Traffic (Prevention) Act has been or is being committed, it is open to the police to take action, after scrupulously following all the steps indicated in Section 15 of the said Act. The steps to be followed are narrated by me in paragraph 28 above; and

(iii) Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, the respondents may take appropriate steps for bringing in either a new legislation or a subordinate legislation in terms of the provisions of the Chennai City Municipal Corporation Act or the Chennai City Police Act, so that public order, decency and morality, which can form the basis for a regulatory law under Article 19(2) of The Constitution, are taken care of. ... "

6.In the light of the said order, the Writ Petition is disposed of by directing the respondents-police to comply with the directions imposed in para 67 of the order as extracted above. It is also made clear that the petitioner under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order.

7.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Coimbatore District.

2.The Inspector of Police,
Mathukarai Police Station,
Coimbatore District.

+1 cc to M/s.I.C.Vasudevan Advocate sr 70003
+1 cc to the Government Pleader sr 70840

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