

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2018

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

Crl.O.P.No.77 of 2018

Pachaiyappa Nattar

...Petitioner

Vs.

1. The Superintendent of Police,
Thiruvannamalai District.

2. The State by
The Sub Inspector of Police,
Thanipadi Police Station,
Thiruvannamalai District.

...Respondents

Prayer:- Petition filed under Section 482 of the Criminal Procedure Code, praying to direct the second respondent police to give permission to conduct cultural dance programme on 21.01.2018 Sunday night in "Thanipadi Sri Samiayapurathu Pudhumariamman Thirukkoil" Thanipadi Village, Thandrapattu Taluk, Tiruvannamalai District.

For Petitioner : Mr.S.Silambu Selvan

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to direct the second respondent police to give permission to conduct cultural dance programme on 21.01.2018 Sunday night in "Thanipadi Sri Samiayapurathu Pudhumariamman Thirukkoil" Thanipadi Village, Thandrapattu Taluk, Tiruvannamalai District.

2. I have heard Mr.S.Silambu Selvan, learned counsel appearing for the petitioner and Mr.R.Ravichandran, learned Government Advocate (Crl.Side) appearing for the respondents.

3. With the consent of both sides, this criminal original petition is taken up for final disposal at the admission stage itself.

4. It is the case of the petitioner that said Mariamman

temple was renovated and thereafter the Kumbabisegam was scheduled to be performed for the said temple on 21.01.2018. On the eve of Kumbabisegam, it is claimed by the petitioner that the village people want to conduct cultural programme by way of dance (Aadal Padal in Tamil) at the night hours on 21.01.2018. It is the further case of the petitioner for conducting such cultural programme, he made a request to the second respondent seeking police permission and bandobast, by his representation dated 17.12.2017. Since the same has not been considered, the petitioner has moved this petition.

5. Mr.R.Ravichandran, learned Government Advocate (Crl.Side) appearing for the respondents would submit that the petitioner's request was not filed on 17.12.2017, but it was given only on 27.12.2017. On receipt of the said request, the second respondent after having considered the same has rejected it. In this regard, the petitioner's request dated 27.12.2017 as well as the rejection order passed by the second respondent has been produced before this Court by the learned Government Advocate (Crl.Side).

6. I have perused the same and in the rejection order, the second respondent has stated that because of the High Court Act 30(2), which is in force, there is likelihood of law and problem and hence the said permission is rejected.

7. From the aforesaid averments made in the rejection order of the second respondent, he does not disclose any worthy reason for rejecting the request of the petitioner. Once the application for seeking police permission and protection is made for any function, the respondent police shall look into the same and after analyzing the area, where the function to be held and nature of the function ect., if really plausible reasons available with the respondent police for refusing the said permission, the said reasons have to be given while rejecting the same. Here in the case, it is only one line statement given by the respondent Police that there would be likelihood of law and order problem and therefore rejected the same. Such kind of out right rejection cannot be accepted.

8. In this context, the learned counsel appearing for the petitioner has relied upon the order of this Court dated 19.12.217 in Crl.O.P.No.28310 of 2017. For easy reference, the relevant portion of the said order is extracted hereunder:

"(a) The cultural programme in connection with in the event of Cultural Program(Adal Padal) at Appakudal, Gandhi Street Arulmigu Sree Omkalamman Temple Festival at Bhavani Taluk, Erode District on 12.01.2018 between 06.00 p.m and 11.00 p.m.

(b)There should not be any kind of

obscene dance or vulgar dialogues during the performance, by anyone of the participants.

(c) Double meaning songs should not be played so as to spoil the minds of students and youths.

(d) No dance or songs, touching upon any political party or religion or community or caste shall be played.

(e) No flex boards in support of any political party or communal leader, shall be erected at the premises of the programme.

(f) The function shall not affect either religious or communal harmony and shall be conducted without any discrimination based on caste.

(g) If there is violation of any one of the conditions imposed, the concerned police officer is at liberty to take necessary action, as per law and stop such performance forthwith; and

(h) Similarly, the police is directed to stop the dance programme, if it is played beyond the permitted time limit.

(i) The respondent is directed to issue necessary permission, incorporating the above conditions."

9. Following the said order, I have considered some of the cases in similar nature wherein, I have passed the following orders:-

"8. In view of the aforesaid order having been passed by this Court and it was also claimed by the learned counsel for the petitioner that number of orders have been passed by this Court in similar circumstances, I am inclined to pass the following order in this Original Petition.

9. The second respondent police is hereby directed

(i) to verify whether an organizing committee has been constituted by the village people to perform the temple festival including cultural program scheduled to be held on 05.01.2018.

(ii) If so, the second respondent shall consider to grant permission for such cultural program on 05.01.2018 or in any other date fixed or to be fixed by the organizing committee. But such permission

shall not be given either to the petitioner or to any individual, instead, it shall be given to a committee consisting of atleast 10 members from the village concerned. In this regard, the second respondent with the help of Revenue Officials (Revenue Inspector or VAO concerned) shall ensure that, at any rate, permission shall be given only to a committee or a group of local people consisting of not less than 10 persons.

(iii) While giving such permission, the second respondent shall impose a condition that if any unlawful activity or violation of law in general or violation of conditions imposed herein, in particular, is taken place which would ultimately create law and order problem in that locality, this committee members consisting of 10 persons shall be held responsible and stringent criminal action under the law would be initiated against them.

10. Apart from the aforesaid conditions, the following additional conditions shall also be imposed by the second respondent for strict compliance of the said committee members including the petitioner herein.

(a) The cultural programme in connection with in the event of Adal Padal on 05.01.2018 at Ranganathapuram Mariammal Temple Festival at Vanur Taluk & Villupuram District, shall be conducted between 06.00 p.m and 11.00 p.m.

(b) There should not be any kind of obscene dance or vulgar dialogues during the performance, by anyone of the participants.

(c) Double meaning songs should not be played so as to spoil the minds of students and youths.

(d) No dance or songs, touching upon any political party or religion or community or caste shall be played.

(e) No flex boards in support of any political party or communal leader, shall be erected at the premises of the programme.

(f) The function shall not affect either religious or communal harmony and shall be conducted without any discrimination based on caste.

(g) If there is violation of any one

of the conditions imposed, the concerned police officer is at liberty to take necessary action, as per law and stop such performance forthwith; and

(h) Similarly, the police is directed to stop the dance programme, if it is played beyond the permitted time limit and

(i) the respondent is directed to issue necessary permission incorporating the above conditions."

10. In view of aforesaid circumstances, I am inclined to dispose of this Criminal Original Petition with the following directions :- The second respondent police is hereby directed

(i) to verify whether an organizing committee has been constituted by the village people to perform the temple festival including cultural program scheduled to be held on 21.01.2018.

(ii) If so, the second respondent shall consider to grant permission for such cultural program on 21.01.2018 or in any other date fixed or to be fixed by the organizing committee. But such permission shall not be given either to the petitioner or to any individual, instead, it shall be given to a committee consisting of atleast 10 members from the village concerned. In this regard, the second respondent with the help of Revenue Officials (Revenue Inspector or VAO concerned) shall ensure that, at any rate, permission shall be given only to a committee or a group of local people consisting of not less than 10 persons.

(iii) While giving such permission, the second respondent shall impose a condition that if any unlawful activity or violation of law in general or violation of conditions imposed herein, in particular, is taken place which would ultimately create law and order problem in that locality, this committee members consisting of 10 persons shall be held responsible and stringent criminal action under the law would be initiated against them.

11. Apart from the aforesaid conditions, the following additional conditions shall also be imposed by the second respondent for strict compliance of the said committee members including the petitioner herein.

(a) The cultural programme in connection with in the event of Adal Padal on 21.01.2018 at Thanipadi Sri Samiayapurathu Pudhumariamman Thirukkoil" Thanipadi Village, Thandrapattu Taluk, Tiruvannamalai District, shall be conducted between 06.00 p.m and 11.00 p.m.

(b) There should not be any kind of obscene dance or vulgar dialogues during the performance, by anyone of the participants.

(c) Double meaning songs should not be played so as to spoil the minds of students and youths.

(d) No dance or songs, touching upon any political party or religion or community or caste shall be played.

(e) No flex boards in support of any political party or communal leader, shall be erected at the premises of the programme.

(f) The function shall not affect either religious or communal harmony and shall be conducted without any discrimination based on caste.

(g) If there is violation of any one of the conditions imposed, the concerned police officer is at liberty to take necessary action, as per law and stop such performance forthwith; and

(h) Similarly, the police is directed to stop the dance programme, if it is played beyond the permitted time limit and

(i) the respondent is directed to issue necessary permission incorporating the above conditions.

12. With these observations/conditions, this Criminal Original Petitions is disposed of.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Thiruvannamalai District.

2. The Sub Inspector of Police,
Thanipadi Police Station,
Thiruvannamalai District.

3. The Public Prosecutor,
High Court, Madras.

+lcc Mr.S.Silambu Selvan, Advocate, SR.No.963(10/01/2018)

CrI.O.P.No.77 of 2018

RRK(09/01/2018)