

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2018

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.30355 of 2018

and

W.M.P.Nos.35438 & 35433 of 2018

A.Joseph

...Petitioner

-Vs-

- 1.The District Collector,  
Salem District, Salem.
- 2.The Revenue Divisional Officer,  
Salem District, Salem.
- 3.The Tahsildar,  
Kaattiyampatty Taluk,  
Salem - 636 351.
- 4.The Assistant Superintendent of Police,  
Omalur, Salem District.
- 5.The Inspector of Police,  
Dheevattypatty Police Station,  
Salem District, Salem.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the 5<sup>th</sup> respondent in Na.Ka.No.19/Ka.A/01-PS/2018 dated 10.10.2018 and quash the same, consequently direct the respondents to permit and allow the petitioner to conduct the prayer meeting on every Sunday at Survey No.73/9-A at Kanchanayakkan Patty Village, Kadayan Patty Taluk, Omalur, Salem District.

For Petitioner : Mr.K.Sathish Kumar

For R1 to R4 : Mr.C.Raghavan

Government Advocate (Crl.side)

ORDER

Mr.C.Raghavan, learned Government Advocate (Crl.side), takes notice for the respondents.

2. In this Writ Petition the writ petitioner has challenged the proceedings of the 5<sup>th</sup> respondent dated 10.10.2018 wherein the 5<sup>th</sup> respondent has restrained the petitioner from conducting the prayer meeting inside his house.

3. The learned counsel for the petitioner would submit that the respondent police does not have any power or jurisdiction to pass an order of this nature. The learned counsel would further submit that if the respondent police is of the opinion that any offence has been committed by the petitioner, the respondent police has to register an FIR and proceed further in the matter. The respondent police can never pass an order of this nature and the same is not within a four corners of law.

4. The learned Government Advocate (Crl.side) on instructions would submit that the petitioner was involved in converting persons to Christianity. For that purpose the petitioner was using the premises. Therefore, the police got complaints from the general public and the 5<sup>th</sup> respondent has proceeded to pass the impugned order. The order was passed by the 5<sup>th</sup> respondent only with an intention to maintain public peace and tranquility in the said area.

5. This Court has carefully considered the submissions made on either side. From the admitted facts, it is clear that the petitioner is conducting the prayer meeting in his own house. According to the learned counsel for the petitioner, it is fundamental right of the petitioner for expressing himself and also to assemble peacefully and form an association. According to the petitioner, the prayer meeting is conducted once in a week by persons, who are having faith in Christianity. The learned counsel for the petitioner further submitted that the petitioner is not involved in any conversion.

6. In the considered view of this Court, the impugned order passed by the 5<sup>th</sup> respondent is completely illegal. The 5<sup>th</sup> respondent does not have the right to stop any one, by passing such order, from assembling and conducting prayer meeting. If the 5<sup>th</sup> respondent finds that any offence has been committed by the petitioner, the 5<sup>th</sup> respondent has to proceed further against the petitioner in accordance with law. Without doing so, the 5<sup>th</sup> respondent cannot pass an order of this nature wherein he has virtually injuncted the petitioner from conducting prayer meeting in his own house. This is a colourable exercise of power which requires interference of this Court under Article 226 of the Constitution of India.

7. In view of the above impugned order passed by the

5<sup>th</sup> respondent in Na.Ka.No.19/Ka.A/01-PS/2018 dated 10.10.2018 is hereby quashed. The petitioner can always conduct prayer meeting at his own house with persons, who have faith in Christianity. This order will not come in the way of the 5<sup>th</sup> respondent to take any action in accordance with law, if any complaint is given to the 5<sup>th</sup> respondent and the 5<sup>th</sup> respondent finds that a cognizable offence has been committed by the petitioner. Till such action is taken by the 5<sup>th</sup> respondent, 5<sup>th</sup> respondent does not have any power or jurisdiction to prevent the petitioner from conducting the prayer meeting at his house.

8. Accordingly, this Writ Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

vsa

To

- 1.The District Collector,  
Salem District, Salem.
- 2.The Revenue Divisional Officer,  
Salem District, Salem.
- 3.The Tahsildar,  
Kaattiyampatty Taluk,  
Salem - 636 351.
- 4.The Assistant Superintendent of Police,  
Omalar, Salem District.
- 5.The Inspector of Police,  
Dheevattypatty Police Station,  
Salem District, Salem.
- 6.The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.Sathishkumar, Advocate SR.No.78392

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GMV (27/11/2018)