



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2018

CORAM

THE HONOURABLE MR. JUSTICE **P. RAJAMANICKAM**

W.P. (MD) No.1340 of 2018

WEB COPY

P. Murugan

...Petitioner

-Vs-

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2. The Deputy Superintendent of Police,
Tirunelveli District,
Tirunelveli.

3. The Inspector of Police,
Kadayam Police Station,
Tirunelveli District.

3. The Executive Officer,
Arul Mighu Muppidathi Amman Temple,
Kadayam,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in Na.Ka.No.01/se.mu/kaa.thu.ka.e/2018, dated 02.01.2018 and quash the same and consequently directing the second respondent herein to grant permission and necessary protection to perform Light Music (Orchestra) on 05.02.2018 from 09.30 p.m to 12.30 a.m on the eve of 7th Mandagapadi held at Arulmigu Muppidathi Amman Temple, Kadayam, Tirunelveli District.

For Petitioner : Mr. M. Paramasivam

For Respondents : Mr. B. Bhagawathi
Government Advocate
for R1 to R3

ORDER

This writ petition has been filed to quash the impugned order passed by the second respondent, dated 02.01.2018 in so far as the restriction of conducting Innisai Katcheri and cultural programme on 05.02.2018 and consequently to direct the second respondent for celebrating the temple festival on 05.02.2018, as per the petitioner's festival schedule in connection with the temple festival of "Mandagapadi held at Arulmigu Muppidathi Amman Temple" at Kadayam, Tirunelveli District.



2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents No.1 to 3.

3. The learned counsel appearing for the petitioner has submitted that the Executive Officer of the Hindu Religious and Charitable Endowments Department has passed an order granting permission to the said Village people to celebrate the function in the said temple on 05.02.2018 and on behalf of the said Village people, the petitioner has submitted a representation before the respondents. He further submitted that the second respondent refused to grant permission to the petitioner to conduct Innisai Katcheri by stating that in the event of conducting Innisai Katcheri, there is a possibility of law and order problem in the said village.

4. The learned Government Advocate has submitted that the Honourable Supreme Court of India in **Church of God (Full Gospel) in India Vs K.K.R. Magestic Colony Welfare Association and Others (supra)**, has held that a loud speaker or a public address system shall not be used at night between 10.00 p.m to 06.00 a.m and hence, the aforesaid impugned order has been passed.

5. The Honourable Supreme Court of India in **Church of God (Full Gospel) in India Vs K.K.R. Magestic Colony Welfare Association and Others (supra)** has held that rules prescribing reasonable restrictions including the Rules for the use of loud speakers and voice amplifiers framed under the Madras Town Nuisances Act, 1889 and also the Noise Pollution (Regulation and Control) Rules, 2000 are required to be enforced.

6. Since in the aforesaid decision, the Honourable Supreme Court has directed the authorities to enforce Noise Pollution (Regulation and Control) Rules, 2000, it is relevant to refer Rule 5 of the said Rules, which reads thus:-

"5. Restrictions on the use of loudspeakers/public address system:- (1) A loudspeaker or a public address system shall not be used except after obtaining written permission from the authority.

(2) A loudspeaker or a public address system shall not be used at night (between 10.00 p.m to 06.00 a.m) except in closed premises for communication within, e.g. Auditoria, conference rooms, community halls and banquet halls."

7. From the reading of the aforesaid provision, it is clear that a loud speaker or a public address system shall not be used without getting written permission from the authority. It is also clear that a loud speaker or a public address system shall not be used at night between 10.00 p.m to 06.00 a.m except in closed



premises for communication within, e.g. auditoria, conference rooms, community halls and banquet halls. But the second respondent has totally banned the programmes after 10.00 p.m without giving an opportunity to the petitioner to find a place (closed premises) to conduct the Light Music (Orchestra) after 10.00 p.m. Hence, the impugned order passed by the second respondent, dated 02.01.2018 is quashed. Therefore, if the petitioner wants to conduct the Light Music (Orchestra) by using a loud speaker or a public address system in an open place, he has to finish the said programme before 10.00 p.m or if he wants to extend the said programme beyond 10.00 p.m, then, he can conduct the said programme in the closed premises, after getting necessary permission from the second respondent.

8.Considering the facts and circumstances of the case, the petitioner is directed to choose a place (closed premises) for conducting the Light Music (Orchestra) on 05.02.2018 beyond 10.00 p.m and submit an application to the second respondent on or before 01.02.2018 and on submission of such an application the second respondent has to consider the said application and pass appropriate order on or before 03.02.2018.

9.With the aforesaid observation, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2. The Deputy Superintendent of Police,
Tirunelveli District,
Tirunelveli.

3. The Inspector of Police,
Kadayam Police Station,
Tirunelveli District.

+1cc to Mr.S.Chellapandian, Advocate Sr.No.44214

+1cc to Spl.Government Pleader Sr.No.45230

GDP

VB/SKN/RSK/SAR3/31.01.2018/3P/6C