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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2018

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.(MD)No.24648 of 2018

Rev.Y.V.K.Kumar ... Petitioner

Vs.

1.The Superintendent of Police,
Karur District.

2.The Inspector of Police,
Velayuthampalayam Police Station,
Karur, Karur District. ... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records pertaining to the 2nd respondent's order dated 11.12.2018 and quash the same and consequently direct the 2nd respondent to grant permission and provide police protection to conduct Carol Service and in Gandhi Nagar, Karur Town, Karur District in any date from 17.12.2018 to 22.12.2018 fixed by this Court.

For Petitioner : Mr.K.Samidurai
For Respondents : Mr.R.Anandharaj
Additional Government Pleader

ORDER

This writ petition has been filed to issue a writ of Certiorarified Mandamus to call for the records pertaining to the 2nd respondent's order dated 11.12.2018 and quash the same and consequently direct the 2nd respondent to grant permission and provide police protection to conduct Carol Service and in Gandhi Nagar, Karur Town, Karur District in any date from 17.12.2018 to 22.12.2018 fixed by this Court.

2.Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3.The learned counsel appearing for the petitioner submitted that the petitioner is the Priest incharge of Evangelical Church of India, situated in No.7/6, Mullai Nagar, 7th street, Velayuthampalayam, Karur. The said church is registered under the

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Tamil Nadu Societies Registration Act and having more than 7000 branches in all over India. The petitioner has been regularly conducting carol service from 2012 in several areas of Karur and during the Christmas season this year the petitioner and his Church members have been conducting carol service from 02.12.2018 and they have decided to conduct carol service in Gandhi Nagar area on 10.12.2018 and 12.12.2018. In this regard, the petitioner had given a representation to the second respondent on 09.12.2018 to consider the representation and give adequate police protection. He would submit that the second respondent Police had rejected the petition stating that there is apprehension that there would be a law and order problem in the areas, where the petitioner had intended to conduct the carol service.

4.The learned counsel for the petitioner would submit that the petitioner has got right under the Constitution to practise the religion and that the petitioner has been conducting carol service for the past several years without any hindrance and disturbance to anybody, whereas, the second respondent, instead of giving protection to them, has wrongly, on the apprehension of disturbance of law and order, had rejected the petition neglecting the duty cast upon him to give adequate protection. He would submit that the petitioner is conducting carol service without using any musical instruments or sound system without disturbing anybody and that they have intended to conduct carol service only in the houses of their Church members/believers and not in the streets.

5.The Additional Government Pleader appearing for the respondents would vehemently oppose stating that permission had been rejected to conduct carol service in Gandhi Nagar area since the respondents are apprehending law and order problem.

6.At this juncture, the learned counsel appearing for the petitioner would rely on a judgment reported in 2015 (6) CTC 117 in the case of Dr.Ambedkar Mandram V. The Superintendent of Police, Virudhunagar (DB) and the order made in W.P.(MD).No.22863 of 2017 and would submit that though the petitioner has got a fundamental right to conduct the program, the writ petitioner is prepared to abide by any reasonable condition that may be imposed by the respondent for conducting the carol service in the manner without affecting law and order problem, whereas the respondent without giving protection, have rejected the representation. He would submit that the respondents are bound to give protection to the petitioner.

7.Considering the above submissions, this Court is of the view that mere apprehension of the law and order problem itself is not a ground to reject the permission without there being any material to substantiate the same. The petitioner has intended to conduct carol service only in the houses of his believers in Gandhi Nagar, Karur Town and not in the streets. Further, he has also given an undertaking that they will not use sound systems and that he has

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also given an undertaking to abide by any reasonable conditions so as to maintain law and order. When such being so, a duty is cast upon the respondents to provide adequate protection rather than to reject the representation on the apprehension of law and order problem. The order of rejection dated 11.12.2018 is set aside.

8.Hence, the second respondent is directed to grant permission and provide police protection to the petitioner to conduct Carol Service in Gandhi Nagar, Karur Town, Karur District on 18.12.2018 with the following conditions:

"(i) the coral service shall be conducted without affecting religious harmony.

(ii) the petitioner shall conduct the carol service in the houses of the members/believers and not in the streets.

9.The second respondent/the Inspector of Police, Velayuthampalayam Police Station, Karur, Karur District is directed to take all steps to ensure that the programme is conducted in a peaceful manner by imposing suitable conditions and the petitioner shall abide by the conditions imposed. The respondent shall provide adequate protection for the programme.

10.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To
1.The Superintendent of Police,
Karur District.

2.The Inspector of Police,
Velayuthampalayam Police Station,
Karur, Karur District.

3.THE Addition Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

+1cc to Mr.K.Samidurai Advocate in SR.No.100490

W.P.(MD)No.24648 of 2018
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