

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.02.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5527 of 2019

K.Gnanasekaran

.. Petitioner

Vs.

The State Rep. by
The Sub Inspector of Police,
Nemili Police Station,
Nemili
Vellore District.

... Respondent

Prayer : This petition is filed Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to set aside the proceedings passed by the respondent letter dated 24.02.2019 Consequently to give adequate protection to conduct the Village festival and cultural program (Dance and Music Program) for the Mayana Kollai at No.49, Uliyanallur Village, Panapakkam Nemili Taluk, Vellore District scheduled to be held on 05/03/19 and 06/03/19 from 7.00.P.M. To 10.00.P.M.

For Petitioner : Mr.V.Arul

For Respondent : Mr.Mohamed Riyaz

Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the proceedings passed by the respondent letter dated 24.02.2019 , thereby rejecting permission to conduct the Dance and Music programme to be held on 05.03.2019 and 06.03.2019 during the night time at 7.00 PM to 10.00.PM on the eve of Mayana Kollai, Uliyanallur Village, Panapakkam Nemili Taluk, Vellore District and quash the impugned order along with the consequential prayer for granting permission and an adequate police protection to conduct the Aadal Padal programme on 05.03.2019 and 06.03.2019.

2. By consent, the Criminal Original petition itself is taken up for final disposal.

3. The petitioner averred that he along with the villages are belong to Uliyanallur village and in their village, it is a rich heritage and ancient temple and for the past many years,

they are celebrating kodai festival. During the temple festival, a cultural programme like Dance and Music programme is being conducted for the past many years in a peaceful manner without any law and order problem. Likewise, in this year also, festival is scheduled for two days and there is a proposal to conduct Dance and Music programme on 05.03.2019 and 06.03.2019 at 7.00 PM to 10.00.PM . Therefore, the petitioner submitted a representation to the respondent, seeking permission to conduct Aadal padal programme on 05.03.2019 and 06.03.2019. The respondent, without considering the above circumstances, mechanically rejected permission to conduct Dance and Music programme for the reason that if they conduct Dance and Music programme, there will be a law and order problem. Hence, the present Criminal Original petition has been filed.

4. Heard the learned counsel Mr.V.Arul appearing for the petitioner and the learned Mr.M.Mohamed Riyaz, Additional Public Prosecutor, appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that this Court repeatedly directs the police officials to grant permission to conduct Dance and Music programme and other related programmes with certain conditions. Therefore, he prayed to quash the impugned order and prayed to grant permission to conduct Dance and Music programme on 05.03.2019 and 06.03.2019.

6.Mr.M.Mohamed Riyaz, he learned Additional Public Prosecutor appearing for the respondent submitted that if the petitioner is allowed to conduct Dance and Music programme, there will be a law and order problem. Therefore, this Criminal Original petition is liable to be dismissed.

7. It is relevant to rely the order passed by the Division Bench of this Court dated 10.07.2018 made in W.P.(MD)No.14491 of 2018, where, this Court has held as follows:

"3. In M.Velmurugan V. The Superintendent of Police, on 24.01.2018. In passing orders in W.P.(MD) No.13440 of 2017, dated 20.07.2017, this Court had observed as follows:-

"3.We may at the very outset note that the celebrations pertain to Arulmighu Sankaranarayana Swamy Temple, Sankarankovil. It is a very ancient and renowned Temple. It is under the control of the Hindu Religious and Charitable Endowments Department. It is beyond dispute that celebrations in such Temples are customary in nature. It is not as if the writ petitioner is seeking to

introduce some new practice. What is being traditionally held and conducted has to be necessarily followed. Therefore, we have no hesitation in allowing the writ petition as prayed for"

It is also relevant to note the notification dated 10.08.2017 in S.O.2555(E) by the Ministry of Environment, Forest and Climate Change, wherein, it has been stated as follows:

"3.In the principal rules, in rule 5, for sub-rule (3), the following shall be substituted namely:-

(3)Notwithstanding anything contained in sub-rule(2), the State Government may subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural, religious or festive occasion of a limited duration not exceeding fifteen days in all during a calendar year and the concerned State Government or District Authority in respect of its jurisdiction as authorised by the concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption should be operative."

Considering the above, this Court passed the following order in W.P.(MD) No.14491 of 2018, which reads as follows:

"7.This Court, taking into consideration the earlier order of this Court and that on earlier occasion, the respondents had not too much to complain of, directs the respondents to grant permission to conduct the "Light Music" and "Patti Mandram" upto 12, mid night, between 17.07.2018 to 28.07.2018. The submission of learned counsel for petitioner that the sound system will be operated within permissible decibel levels is recorded."

8. In furtherance to above, the Division Bench of this Court recently in W.P.(MD)Nos.17731 of 2018 and etc, batch, dated 10.08.2018, passed the following order:

"2. We are of the view that no public interest is involved in these Writ Petitions. We feel that the need to approach this Court would not have arisen, if only the respondent police considered the request of the petitioners within

a reasonable time, i.e., at least two days from the date of receipt of representations. Thus, without expressing any opinion on the merits of the case, we direct the Inspector of Police/Sub-Inspector of Police concerned in all the Writ Petitions to consider and pass appropriate orders on the representations submitted by the petitioners within a period of two days. In the event of granting permission, the respondent police shall always impose any reasonable conditions, as has been imposed in the earlier occasions.

3. Considering the issue involved, which will be recurring in nature, we direct the Inspector General of Police, South Zone and the Central Zone to issue appropriate directions in this regard to all the police officers concerned coming within their jurisdiction, who would be otherwise dealing with such cases, to take decisions within a period of two days from the date of receipt of representations from the petitioners so that the Courts will not be troubled.

4. It is brought to the notice this Court by Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.A.K.Baskarapandian, learned Special Government Pleader, that the Writ Petitions are being filed, after giving representations in the previous days.

5. We find considerable force in the said submission made by the learned Additional Advocate General. Our directions can never be implemented, if the petitioners rush to this Court on the very next day, after giving representations. Therefore, the persons, who seek permission to conduct cultural programme, are required to give representations at least two weeks before the proposed cultural programmes and thereafter, the directions, as given above, will have to be complied with by the police officer concerned."

9. In view of the above decision rendered by this Court, the impugned order passed by the respondent cannot be sustained and it is liable to be set aside. Accordingly, the impugned order dated 24.02.2019 passed by the respondent is quashed. Further, considering the above facts and circumstances of the case, the following directions are issued to the respondent:-

The respondent is directed to grant permission and to provide adequate police protection for the Aadal padal programme to be conducted on 05.03.2019 and 06.03.2019 during night time at 7.00 p.m. to 10.00 p.m. on the eve of Mayana Kollai at No.49, Uliyanallur Village, Panapakkam Nemeli Taluk, Vellore District, subject to the following conditions:

a) the Aadal padal programme in connection with a Festival for Mayana Kollai at No.49, Uliyanallur Village, Panapakkam Nemeli Taluk, Vellore District, scheduled to be held on 05.03.2019 and 06.03.2019 should be completed before 12.00 midnight or within the time permitted by the respondent.

(b) double meaning songs should not be played so as to spoil the minds of students and the youth;

(c) no songs, touching upon any political party or religion, community or caste be played;

(d) no flex boards in support of any political party or religious leader be erected;

(e) the Aadal padal programme should not affect either religious or communal harmony and shall be conducted without any discrimination based on caste;

(f) if there is any 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;

(g) similarly, the Police is empowered to stop the programme, if it exceeds beyond the permitted time;

(h) the participants of the programme shall not intake any kind of in-toxic substance or liquor during the programme; and

(i) if any untoward incident takes place, the organizers of the programme be made responsible for the same.

10. It is open to respondent police to put any further restrictions or to impose any conditions purely in the interest

of preserving public order and tranquillity. There can be a total ban for putting up any Flex Boards representing any community.

11. This Criminal Original petition is allowed with the above observations and directions.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

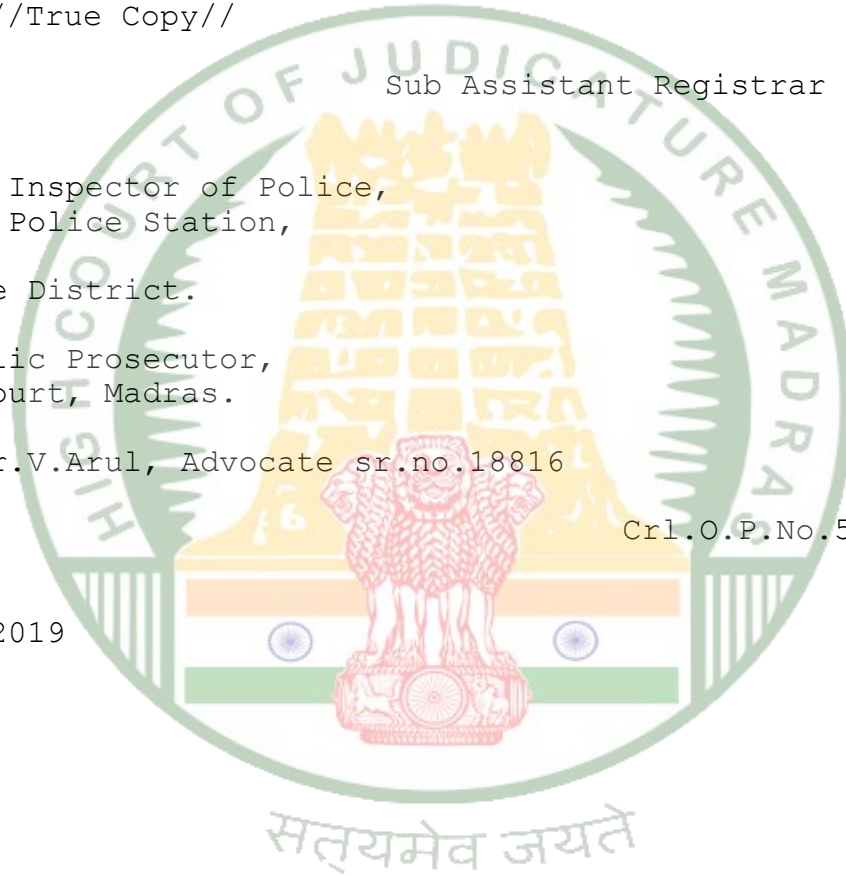
1.The Sub Inspector of Police,
Nemili Police Station,
Nemili
Vellore District.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Arul, Advocate sr.no.18816

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