



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A. (MD) No.618 of 2019
and C.M.P. (MD) No.5065 of 2019

Manickam

... Appellant/3rd Respondent

Vs.

- 1.The Superintendent of Police,
Trichy,
Trichy District.
- 2.The Inspector of Police,
Thottiyam Police Station,
Trichy District.

... Respondents 1 & 2/
Respondents 1 & 2

3.P.Shanmugam

... 3rd Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court made in W.P.(MD) No.3090 of 2019 dated 25.02.2019.

Prayer in WP(MD) . 3090/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 2nd respondent to grant permission and police protection to conduct the programme namely Annathana Kodi Vizha function and Siruthondar Drama on 18/04/2019 and 19/04/2019 situated at Ammankudi village, Thottiyam Taluk, Trichy District by considering the petitioners representation dated 23/01/2019.

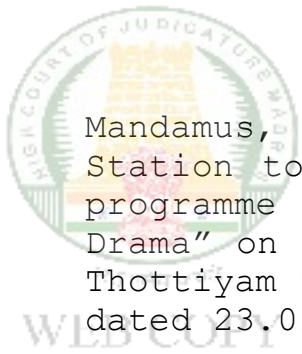
For Appellant : Mr.T.Vadivelan

For Respondents 1 & 2: Mr.A.K.Baskara Pandian
Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)

The present Writ Appeal has been filed by the third respondent in the Writ Petition, aggrieved by the order dated 25.02.2019, made in W.P.(MD) No.3090 of 2019, which has been filed by the third respondent herein for the issuance of a Writ of



Mandamus, directing the Inspector of Police, Thottiyam Police Station to grant permission and police protection to conduct the programme viz., Annathana Kodi Vizha function and "Siruthondar Drama" on 18.04.2019 and 19.04.2019 situated at Ammankudi Village, Thottiyam Taluk, Trichy District by considering his representation dated 23.01.2019.

2.The learned Single Judge, after hearing the arguments of the learned counsel for the Writ petitioner, the learned Government Advocate (Criminal Side) for the respondents 1 and 2 as well as the learned counsel appearing for the third respondent in the Writ Petition, who is the appellant herein, had granted permission and Police Protection subject to certain conditions and challenging the same, this Writ Appeal is filed.

3.The learned counsel appearing for the appellant would submit that though certain factual submissions have been made by the appellant herein and the same have not been taken note of in a proper perspective by the learned Single Judge. That apart Civil Suit is pending and hence prays for interference.

4.It is to be pointed out at this juncture that though the Writ Petition was filed and numbered under Article 226 of the Constitution of India, it only pertains to granting of police protection and the third respondent in the Writ Appeal instead of filing Criminal Original Petition under Section 482 Cr.P.C. has filed a Writ Petition by invoking Article 226 of the Constitution of India. The Hon'ble Apex Court in **Ram Kishan Pauji v. State of Haryana [(2017) 5 SCC 533]** has laid down a principle, if the order is passed by the High Court in Criminal jurisdiction, Letters Patent Appeal is not maintainable under Clause 15 of the Letters Patent Act. In the light of the above, this Court is of the considered view this Writ Appeal is not maintainable.

5.According to the learned counsel appearing for the petitioner, the factual submissions made by the appellant/third respondent have not been properly taken note of by the learned Single Judge, while disposing of the Writ Petition. However, if the factual submissions are not correctly recorded, appeal is not the appropriate remedy.

6.In the light of the reasons assigned above, the Writ Appeal is dismissed. Consequently, connected Civil Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

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To தலைவர்

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