



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.12.2019

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Writ Petition (MD) No.2361 of 2019

C.Mariya Kokila Flora

... Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District.

2.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

3.The Inspector of Police,
Nanguneri Taluk Police Station,
Tirunelveli District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from interfering with the peaceful conducting of prayer in the house of the petitioner along with his family members and relatives, situated in S.No.65/41C2, Door No.3/322, National College Road, Moonradaipu Post, Tirunelveli, Tirunelveli District.

For Petitioner : Mr.K.Samidurai

For Respondents : Mrs.Bharathi

Government Advocate (Crl. side)

O R D E R

This petition has been filed seeking for a direction to the respondents from interfering with the peaceful conducting of prayer in the house of the petitioner along with his family members and relatives, situated in S.No.65/41C2, Door No.3/322, National College Road, Moonradaipu Post, Tirunelveli, Tirunelveli District.

2.The case of the petitioner is that she is the owner of the residential property new at S.No.65/41C2, Door No.3/322, National College Road, Moonradaipu Post, Tirunelveli, Tirunelveli District. The said property had been purchased by registered sale deed dated



25.02.2011 bearing No.1033/2011 and thereafter she had constructed a house after obtaining approval from the Panchayat. The petitioner is conducting prayer in the said house without causing any disturbance to the public for more than 7 years

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3.The learned counsel for the petitioner would submit that a false complaint has been given by unknown persons to the third respondent, as if, there is a law and order problem due to conducting prayer in his house. In the meantime, he has been conducting prayer in the said house with his family members, friends and relatives. Whereas, the third respondent is compelling the petitioner to get permission from the authorities even for conducting prayer in his house. He would further submit that this Court, in several writ petitions, have permitted the respective petitioners to conduct prayers in the residence/houses without causing nuisance or disturbance to others and to general public, using speaker and sound system within the permissible limits. He would further submit that the petitioner has also given an undertaking to the third respondent stating that he will not use any speaker or sound system or create any disturbance to the general public.

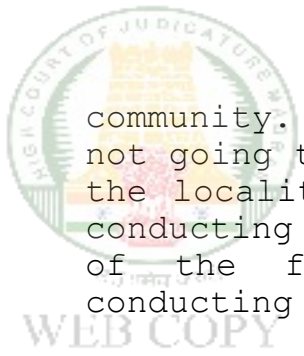
4.The learned Government Advocate (Crl. side) would submit that if prayers are conducted within the residence of the petitioner without causing disturbance to the general public and without using any speaker or sound system, the police will not have any objection in permitting such prayers. However, if the petitioner in the name of prayer, tries to spoil the peace and harmony in the place, then certainly the police will have to interfere to restore normalcy.

5.The learned counsel for the petitioner would submit that the Constitution of India guarantees fundamental rights and mandates that all persons are equally entitled to freedom of conscience and to exercise their right to freely profess practice and propagate religion and therefore, the petitioner and his brethren belonging to the Christian community are also having such fundamental right and the same cannot be interfered by the respondent police.

6.The learned counsel for the petitioner would in support of his contention rely on the earlier orders of the Principal Bench of this Court and this Court in W.P.No.2149 of 2018, dated 14.06.2019, W.P.(MD).No.18955 of 2018, dated 31.08.2018 and W.P.(MD)No.710 of 2019, dated 11.01.2019 and would reiterate that the petitioner cannot be prevented from conducting in his residence/house.

7.Heard Mr.K.Samidurai, learned counsel for the petitioner, Mrs.S.Bharathi, learned Government Advocate (criminal side) for the respondents.

8.The specific case of the petitioner is that the prayer is being conducted at his residence and the same is being attended by



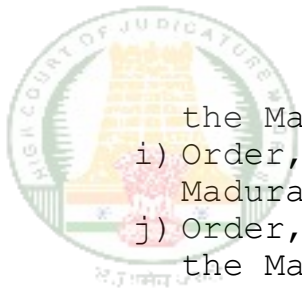
community. Further case of the petitioner is that these prayers are not going to cause any nuisance or hindrance to the others living in the locality and no loud speaker or sound system is being used for conducting the said prayers, whereas on the basis of the complaint of the fourth respondent, the petitioner is prevented from conducting prayers.

9. In W.P.(MD)No.710 of 2019, dated 11.01.2019 filed by a person, similarly placed as that of the petitioner this Court has held as follows:

"14. Following the above decisions and the fundamental rights guaranteed under the Constitution of India to the citizens, in the opinion of this Court, there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place without causing nuisance or disturbance to others and without causing hindrance to the general public. It is the duty of the authorities to safeguard the protection of every citizen of this Country to practise constitutional rights guaranteed under the Constitution of India. However, in a civilized Society in the name of religion, activities, which disturb others, in any manner and for bona fide reasons, cannot be permitted and hence, if there is any nuisance caused due to noise pollution or for any other bona fide reasons, it is always open to the authorities to take necessary action under the provisions of the relevant statutes. But, before resorting to any action, the authorities, on the basis of concrete evidence, should arrive at a subjective satisfaction that there exists infringement of a right of others, under the Constitution of India, to enforce public order."

10. In the above order this court had referred to earlier orders of this court passed in similar circumstances.

- a) CDJ 2007 MHC 5279 (Sadhu C.Selvaraj Vs. The Collector, Kanyakumari)
- b) 2005 4 CTC 171 (Albert Raj Vs. The District Collector, Kanyakumari District at Nagercoil)
- c) Order, dated 14.08.2012, made in WP(MD)No.10782 of 2006, of the Madurai Bench of the Madras High Court.
- d) Order, dated 13.08.2007, made in WP(MD)No.6732 of 2007, of the Madurai Bench of the Madras High Court.
- e) Order, dated 30.04.2008, made in WP.No.4151 of 2008, of the Madras High Court.
- f) Order, dated 14.12.2012, made in WP(MD)No.13336 of 2007, of the Madurai Bench of the Madras High Court.
- g) Judgement, dated 03.01.2017, made in WA(MD)No.1349 of 2013, of the Madurai Bench of the Madras High Court.
- h) Order, dated 28.11.2011, made in CrI.OP(MD)No.15462 of 2011, of



the Madurai Bench of the Madras High Court.

i) Order, dated 31.08.2018, made in WP(MD)No.18955 of 2018, of the Madurai Bench of the Madras High Court.

j) Order, dated 09.03.2018, made in Crl.OP(MD)No.3039 of 2018, of the Madurai Bench of the Madras High Court.

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11. In view of the above and under such circumstances, this Court does not find any reason as to why the petitioner should not be permitted to conduct such prayers in his own residence.

12. This writ petition is disposed of with the direction to the respondents not to interfere with the right of the petitioner, conducting prayer along with relatives and friends at the residence of the petitioner situated at S.No.65/41C2, Door No.3/322, National College Road, Moonradaipu Post, Tirunelveli, Tirunelveli District. The petitioner shall ensure that this prayer does not in any way cause any hindrance to the general public and does not in any way give rise to any law and order problem. If any law and order problem is created, then certainly, the respondent police is at liberty to take appropriate action. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg
To

1. The Superintendent of Police,
Tirunelveli District.

2. The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

3. The Inspector of Police,
Nanguneri Taluk Police Station,
Tirunelveli District.

+1 CC to M/s.M/S.K.SAMIDURAI, Advocate (SR-105159[F] dated 16/12/2019)

WP. (MD)No.2361 of 2019

KK/SAR/08.01.2020/4P-5C/