



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2019

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

W.P. (MD) No. 25389 of 2018

and

W.M.P. (MD) No. 22971 of 2018

Thiruppuvanam Sports & Recreation Club,
Rep. by its Secretary,
B.Kannan, a Registered Society,

... Petitioner

Vs.

1.The Superintendent of Police
Sivagangai,
Sivagangai District.

2.The Inspector of Police
Thiruppuvnam Police Station,
Sivagangai District.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the 2nd Respondent herein from interfering with the lawful day today activities of the Petitioner association without following the due process of law based on the petitioner's representation dated 11.12.2018.

For Petitioner : Mr.C.Susi Kumar

For Respondents : Mr.R.Anandharaj

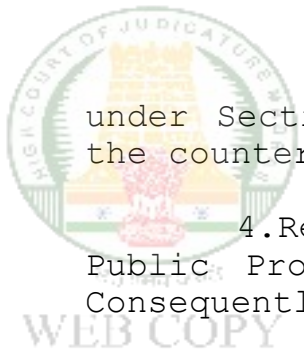
Additional Public Prosecutor

ORDER

This petition has been filed forbearing the 2nd Respondent herein from interfering with the lawful day today activities of the Petitioner association without following the due process of law based on the petitioner's representation dated 11.12.2018.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3.The learned Additional Public Prosecutor submitted that on the complaint lodged by the petitioner, the second respondent conducted an enquiry and registered an F.I.R in Crime No.3 of 2019,



under Sections 420, 495, 498 (A) and 506(ii) of I.P.C. as against the counter party.

4. Recording the submission made by the learned Additional Public Prosecutor, the writ petition stands closed. No costs. Consequently, connected Miscellaneous Petition is also closed.

SD/-
24.09.2019

(*) This Petition having been posed on 23.10.2019 'for Being Mentioned' in pursuance to the order of this Court dated 23.10.2019 and made heraring in the presence of the above said Advocate, this Court made the following order.

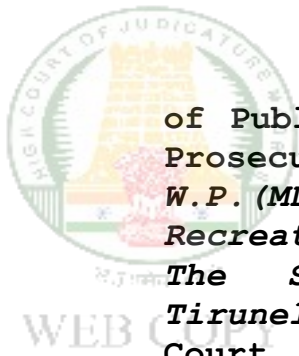
The matter is taken up for hearing today under the caption 'for being mentioned'.

2. Considering the submission made by the learned counsel for the petitioner, the order dated 24.09.2019 is modified as follows:

"2. The grievance of the petitioner is that, the club was registered under the Tamil Nadu Societies Registration Act, 1975. The petitioner, who is the Secretary, is running the Club to promote various facilities to their members and it is not involving in any illegal activity. According to the petitioner, the respondent Police are interfering and disturbing the lawful activities of the Club, without following any provisions of law and preventing them from doing their activities peacefully. Hence, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that the Club was registered under the Tamil Nadu Societies Registration Act, 1975, and the Club is being run for the benefit of its' members. The petitioner's Club was entitled to conduct lawful activities in its premises and also could conduct entertainment programmes. The respondent Police have no power to deny the petitioner's Club to conduct lawful activities.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner's club was registered under the Tamil Nadu Societies Registration Act, 1975. They are conducting various programmes to entertain their members. Based on some reliable information, the respondent Police made a search in the Club. Apart from that, the petitioner has not obtained licence as per Section 3 of the Tamil Nadu Places



of Public Resort Act, 1888. The learned Additional Public Prosecutor relied upon the order passed by this Court in W.P. (MD).Nos.5560 of 2018, etc., batch cases-[Mass Recreation Club-Shengottah represented by its Secretary Vs. The Superintendent of Police, Tirunelveli District, Tirunelveli and others], dated 13.07.2018, wherein, this Court held that the petitioner should necessarily get license from the Authority concerned under Section 3 of the Tamil Nadu Places of Public Resort Act, 1888. The above order has been confirmed by a Division Bench of this Court in W.A. (MD).No.1017 of 2018, dated 31.07.2018. The relevant portion of the judgment reads as follows:-

"3. We have recorded the reason for dismissal of the Writ Petition. We find absolutely no reason to differ. Informing that appellant has to obtaining necessary permission under Tamil Nadu Places of Public Resort Act, 1888 and on doing so, it would be open for the appellant Club to indulge in Rummy Card games and other recreation activities, other than those that what offend the Tamil Nadu Gambling Act, this Writ Appeal stands dismissed."

5. That apart, the learned Additional Public Prosecutor appearing for the respondents has relied upon Section 34 of the Chennai City Police Act, 1888. Section 34 of the above said Act reads as follows:-

"34. Places of public resort to be licensed-(1) No enclosed place or building having an area of five hundred square feet or upwards shall be used for public entertainment or resort without a licence from the Commissioner.

Provided that nothing contained in this Sub-Section shall apply to any Church, Temple, Mosque, or other place of worship.

(2) The Commissioner may, at the time of grant of a licence under Sub-Section (1) or at any time during the currency of any such licence, require any person, other than a local authority, applying for such licence or the holder of such licence, as the case may be, to deposit with the Commissioner in cash or in Government promissory notes for such sum, as may be prescribed as security for the due observance of the conditions of licence.

(3) Where there is breach or non-observance of the conditions of the licence granted under Sub-Section (1) the Commissioner may forfeit the security so deposited to the Government.

(4) The forfeiture of the deposit shall not be a bar for



proceeding against the holder of the licence under the provisions of Section 76."

6. The main grievance of the petitioner is that, the petitioner is running a Club for the benefit of their members without violating any law, and they need not obtain any licence from any authority. But as per the Judgment relied upon by the learned Additional Public Prosecutor appearing for the respondents, all the Clubs necessarily get license under the Tamil Nadu Places of Public Resorts Act, 1888, and which was also confirmed by the Division Bench of this Court.

7. Considering the above circumstances, without going into the merits of the case, I am inclined to issue a direction to the petitioner to approach the authority concerned, seeking for licence under Section 3 of the Tamil Nadu Places of Public Resort Act, 1888, as per the order passed by this Court in W.P. (MD). Nos. 5560 of 2018, etc., batch cases, dated 13.07.2018 and, the petitioner is also directed to submit necessary application under Section 34 of the Madras City Police Act, 1888, before the competent authority, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the competent authorities are directed to pass orders on the application, within a period of six weeks thereafter.

8. If the concerned authorities granted license to the petitioner, the second respondent police shall not interfere with the running to day to day activities of the club unless the petitioner's club involved in any illegal activities or members of the club causes disturbance to the



general public.

9. This Writ Petition stands disposed of with the above directions. No costs. Consequently connected miscellaneous petition is also closed"

Sd/-

Assistant Registrar (AD I)
(Dated: 11.10.2019)

(*) Amended as per the order of
this Court dated: 23.10.2019

Sd/-

Assistant Registrar (CO)
(Dated: 14.11.2019)

// True Copy //

Sub Assistant Registrar (CS)

Ls

To

(*) to be substituted the order already despatch on 18.10.2019

1. The Superintendent of Police
Sivagangai,
Sivagangai District.

2. The Inspector of Police
Thiruppuvam Police Station,
Sivagangai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.SUSI KUMAR, Advocate (SR-89170[F] dated 25/09/2019)

W.P. (MD) No. 25389 of 2018
24.09.2019

KM/ (16.10.2019) 2P 5C
TR (18.11.2019) 5P 5C