



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2019

CORAM :

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

W.P. (MD)No.24556 of 2019

P.Sakthivel

... Petitioner

Vs.

1.The Superintendent of Police
Kanyakumari District,
Nagercoil.

2.The Inspector of Police
Thentamaraikulam Police Station,
Kanyakumari District

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to grant permission to perform the program of 'Arulisai', 'Thirukalyanam' and Annadhanam from 23.11.2019 to 25.11.2019 at day and night in connection with temple festival at Arulmigu Ayya Temple is situated at Arasampathi, Karambavilai, Swamy Thoppu Post, Kanyakumari District and to provide adequate police protection based on the petitioner's representation dated 11.11.2019.

For Petitioner : Mr.S.R.Anbarasu

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate(crl.side)

O R D E R

This petition has been filed to direct the respondents to grant permission to perform the program of 'Arulisai', 'Thirukalyanam' and Annadhanam from 23.11.2019 to 25.11.2019 at day and night in connection with temple festival at Arulmigu Ayya Temple is situated at Arasampathi, Karambavilai, Swamy Thoppu Post, Kanyakumari District and to provide adequate police protection based on the petitioner's representation, dated 11.11.2019.

2.By consent of both parties, the main Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner averred that he is an Organizer of the



Committee, he along with the villagers are belong to Arasampathi village and in their village, there is a temple called at Arulmigu Ayya Temple. It is a rich heritage and ancient temple and for the past several years, they are celebrating the festival. During the temple festival, a cultural programme like 'Arulisai', 'Thirukalyanam' programmes is being conducted for the past several years in a peaceful manner without any law and order problem. Likewise, in this year also, at Arulmigu Ayya Temple is situated at Arasampathi, Karambavilai, Swamy Thoppu Post, Kanyakumari District, festival is scheduled for three days and there is a proposal to conduct 'Arulisai', 'Thirukalyanam' from 23.11.2019 to 25.11.2019. Therefore, the petitioner submitted a representation to the second respondent on 11.11.2019, seeking permission to conduct 'Arulisai', 'Thirukalyanam' from 23.11.2019 to 25.11.2019. The second respondent, without considering the above circumstances, mechanically rejected permission to conduct 'Arulisai', 'Thirukalyanam' programme for the reason that if they conduct 'Arulisai', 'Thirukalyanam' programme, there will be a law and order problem. Hence, the present Criminal Original petition has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondents.

The learned counsel appearing for the petitioner would submit that this Court repeatedly directs the police officials to grant permission to conduct 'Arulisai', 'Thirukalyanam' programme and other related programmes with certain conditions.

5.The learned Government Advocate (criminal side) appearing for the respondents submitted that if the petitioner is allowed to conduct 'Arulisai', 'Thirukalyanam' programme, there will be a law and order problem. Therefore, this petition is liable to be dismissed.

6. 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."

7. 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

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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."

8. In view of the above decision rendered by this Court, this Court issued the following directions:-

The second respondent is directed to grant permission and to provide adequate police protection for the 'Arulisai', 'Thirukalyanam' programme to be conducted from 23.11.2019 to 25.11.2019 on the eve of at Arulmigu Ayya Temple is situated at Arasampathi, Karambavilai, Swamy Thoppu Post, Kanyakumari District, subject to the following conditions:

a) the 'Arulisai', 'Thirukalyanam' programme in connection with a Festival of Arulmigu Ayya Temple is situated at Arasampathi, Karambavilai, Swamy Thoppu Post, Kanyakumari District, scheduled to be held from 23.11.2019 to 25.11.2019 should be completed before 11.00 p.m 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



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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.

9. 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.

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

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

1. The Superintendent of Police, Kanyakumari District, Nagercoil.

2. The Inspector of Police, Thentamaraikulam Police Station,
Kanyakumari District

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

+1 CC to M/s.S.R. ANBARASU, Advocate (SR-100242[F] dated 21/11/2019

W.P.(MD)No.24556 of 2019
21.11.2019

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