

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Cr1.OP.No.522 of 2020

P.Vinobalan

... Petitioner

Vs.

State rep.by

The Inspector of Police,
Ammamet Police Station,
Erode District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, to direct the respondent police to grant permission and police protection for conducting "Cock Fight" (சேவல் சண்டை) at No.76A, Vadakukad Neruchupedi Post, Anthiyur Taluk, Erode District on 16.01.2020, 17.01.2020 and 18.01.2020 to petitioner.

For Petitioner : Mr.W.Camyles Gandhi

ORDER

This petition has been filed to direct the respondent police to grant permission and police protection for conducting "Cock Fight" (சேவல் சண்டை) at No.76A, Vadakukad Neruchupedi Post, Anthiyur Taluk, Erode District on 16.01.2020, 17.01.2020 and 18.01.2020 to petitioner.

2. Heard the learned counsel for the petitioner and perused the materials on record.

3. The learned counsel for the petitioner has submitted that the petitioner is an Organizer of the Pongal Festival and conduct the Pongal Festival in his village. He further submitted that the said festival, for this year, will be celebrated from 16.01.2020 to 18.01.2020 and during the said festival time, the petitioner has decided to conduct Cock Fight. He further submitted that for conducting the said Cock Fight, the petitioner gave a petition before the second respondent on 28.12.2019 seeking permission and also to give police

protection, but, so far, no order has been passed and hence, he requests to direct the respondent to grant permission and also police protection for conducting Cock Fight.

4. The learned counsel for the petitioner, in support of his contentions relied upon the following decisions of this Court.

(i) S.Lakshmanansamy Vs. State (Crl.OP.No.925 of 2018) dated 12.01.2018.

(ii) S.Lakshmanasamy Vs. State (Crl.OP.No.489 of 2019) dated 10.01.2019

(iii) K.Saravanan Vs. The Superintendent of Police, Thiruvallur (Crl.OP.No.2155 of 2019) dated 04.02.2019.

(iv) K. Periyannan Vs. The Superintendent of Police, Erode (Crl.OP.No.6909 of 2019) dated 14.03.2019.

5. Per Contra, the learned Government Advocate (Crl.Side) has submitted that the Division Bench of this Court in S.Kannan Vs. The Commissioner of Police, Madurai City, Madurai (WP.(MD) No.8040 of 2014 has held that Cock Fight or any other animals and birds fight should be prohibited and hence he prayed to dismiss the petition.

6. In S.Kannan Vs. The Commissioner of Police, Madurai City, Madurai (cited Supra) a Division Bench of this Court in Paragraph Nos.22 to 24 has held as follows:

"22. Pleasure, joy, happiness should be derived by treating the fellow human beings equally and considering the animals, birds etc are entitled to co-exist in this world. After all, the animals and birds are always useful to the mankind for their sustenance and therefore we should take care of their well being in our own interest. When the rights of the voiceless species are sought to be affected, obligation is cast upon this Court to protect their rights. This Court is not only custodian of rights of the Citizens but also rights of voiceless non-humans.

23. Though the learned counsel for the petitioner relied upon the Division Bench Judgment of this Court in W.P.No.7444 of 2013 dated 29.04.2013 and W.P.No.8298 of 2014 dated 14.05.2014 granting permission to conduct cock fight, this court declines to grant permission following the judgment of the Hon'ble Supreme Court which prohibited Jallikattu.

24. Taking into consideration the overall interest of the society and the provisions of the Act and the interpretation and rendering of judgment by the Apex Court in Jallikattu case, it is time for the authorities to raise to the occasion to do the needful. Hence, cock-fight or any other animal and birds fight, should be prohibited. For the above, this Court suggests to the Government to prohibit cock-fight. Accordingly, the permission sought for by the petitioner cannot be granted and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

7. In fact as per Section 72 of the Chennai City Police Act, 1888, cock fighting in public place is an offence. Section 72 of the said Act reads thus:-

"Section 72 - Penalty for gambling or cock fighting in public place:- Whoever is found gaming with cards, dice, counters, money, or other instruments of gaming in any public place, or publicly fighting cocks, or present as a spectator of such gaming or cock fighting, shall be liable on conviction to a fine not exceeding one hundred rupees or to imprisonment not exceeding three months and such instruments of gaming and money shall be forfeited. "

8. A plain reading of the aforesaid provision shows that cock fight event is prohibited and even spectators also liable to be punished. But the said Act will apply only to Chennai City. Anyhow, cock fight events violate Sections 3 and 11 of the Prevention of Cruelty to Animals Act, 1960.

9. Recently, a Division Bench of Andhra Pradesh High Court in Narahari Jagadish Kumar Vs. The State of Andhra Pradesh (W.P.(PIL) No.320 of 2014 and batch dated 26.11.2016) has held that cock fights cause considerable pain, stress and strain on the roosters. The organisers are not preventing the infliction of unnecessary pain or suffering, but are ensuring that pain and suffering is inflicted on the roosters, which they are legally obliged to prevent. Finally the Division Bench has held that cock fights violate Sections 3 and 11 of the Prevention of Cruelty to Animals Act, 1960.

10. For proper appreciation, the relevant portions of the aforesaid decision are extracted hereunder :-

"Cockfights cause considerable pain, stress

and strain on the roosters. As severe pain is inflicted on them in the cockpit, they attempt to flee from a situation adverse to them. (A. Nagarajal). By organising cockfights, the organisers are not preventing the infliction of unnecessary pain or suffering, but are ensuring that pain and suffering is inflicted on the roosters, which they are legally obliged to prevent. From the point of view of the rooster, cockfight is not an event which ensures their well-being, or an event meant to prevent infliction of unnecessary pain or suffering on them. On the contrary, it is an event against their well-being and causes them unnecessary pain and suffering. Both the limbs of Section 3 of the 1960 Act are violated while conducting a cockfight event. (A. Nagarajal).

Chapter III of the 1960 Act relates to cruelty to animals generally and Section 11, thereunder, relates to treating animals cruelly. Section 11, which generally deals with cruelty to animals, is a beneficial provision enacted for the welfare and protection of the animals, and is penal in nature. Being penal in nature, it confers rights on the animals and obligates all persons, including those who are in charge or care of the animals, AWBI, etc to look after their well-being and welfare. (A. Nagarajal).

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As Sections 3 and 11 of the Act confer rights on animals not to be subjected to cruelty, Courts can always judge whether they are being exploited by human beings. Through the 1960 Act, Parliament has given statutory recognition to the rights of animals, without sacrificing the interest of human beings applying the doctrine of necessity, like experiments on animals for the purpose of advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or for prolonging life or alleviating suffering or for combating any disease, whether of human beings, animals or plants. (A. Nagarajal).

Animals also have intrinsic worth and value. Section 3 of the 1960 Act has acknowledged those rights and, along with Section 11, casts a duty on persons, having a charge or care of animals, to take reasonable measures to ensure their well-being, and to prevent infliction of unnecessary pain and

suffering on them. (A. Nagarajal). Sections 3 and 11 confer no right on the organisers of cockfights, but only prescribe duties, responsibilities and obligations, and confer a corresponding right on animals. The right to live in a healthy and clean atmosphere, the right to get food and shelter, and the right to protection from human beings against inflicting unnecessary pain or suffering on them is a right guaranteed to animals under Sections 3 and 11 of the 1960 Act. (A. Nagarajal).

11. The decisions cited by the learned counsel for the petitioner were rendered by Single Judges of this Court. In the said decisions, earlier Division Bench decision of this court in S.Kannan Vs. The Commissioner of Police, Madurai City, Madurai (cited supra) was not taken into consideration. The said Division Bench decision will have a binding force.

12. In view of the aforesaid Division Bench decision of this court and also Division Bench decision of the Andhra Pradesh High Court, the Permission sought for by the petitioner cannot be granted. Hence this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Ammamet Police Station,
Erode District.
2. The Public Prosecutor,
Madras High Court,
Chennai.

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srg 21/02/2020