

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.13406 of 2013

&

M.P.No.1 of 2013

Friends Recreation Club,
Regn. No.223/1996, Old No.154-A, New No.150,
Riverside North Street,
Gugai, Salem - 6.
Rep. by its Secretary A.Mahamood ... Petitioner

vs

1. The Commissioner of Police,
Salem.
2. The Deputy Commissioner of Police (L & O),
Sangagiri Main Road,
Linemedu, Salem-6.
3. The Assistant Commissioner of Police (L & O),
South Zone,
Salem.
4. The Inspector of Police,
Sevapettai Police Station,
Sevapettai, Salem. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents herein from preventing the members of the petitioner Club playing the game of rummy along with Carrom Board, Table Tennis, Chess at Old No.154-A New No.150 Riverside North Street, Gugai, Salem-6.

For Petitioner : Mr.C.Prakasam
For Respondents: Mr.V.Shanmugasundar
Special Government Pleader

ORDER

This writ petition is heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

forbear the respondents herein from preventing the members of the petitioner Club playing the game of rummy along with Carrom Board, Table Tennis, Chess at Old No.154-A, New No.150 Riverside North Street, Gugai, Salem-6.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. The learned Special Government Pleader pointed out that earlier the same petitioner had filed CrI.O.P.No.11915 of 2017 under Section 482 of Cr.P.C. to call for the records in S.T.R. No.786 of 2011 on the file of the Judicial Magistrate-III, Salem and quash the same. An order came to be passed on 20.02.2019, which reads as follows:

"6. Further, it is seen from the definition of Common Gaming House means "any house, room, tent, enclosure, vehicle vessel or any place whatsoever in which cards, dice, tables or other instruments of gaming are kept or used for the profit or main of the persons owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel or place opened, kept or used or permitted to be opened, kept, or used for the purpose of gambling" and Gaming does not include a lottery but includes wagering or betting.

7. In this regard, the Hon'ble Supreme Court of India in the case of State of Andhra Pradesh Vs. K.Sathyanarayana reported in AIR 1986 SC 825, has held as follows:

"The game of rummy is not a game entirely of chance like the three-card" game. The different names such as "flush", 'brag' etc is a game of pure chance, rummy on the other hand, requires certain amount of skill because the fall of the cards has to be memorized and the building up of rummy requires considerable skill-in holding and discarding cards. It is mainly and preponderantly same character as the chance in a deal at a game of bridge. In fact in all games in which cards are shuffled and dealt out, there is an element of chance, because the distribution of the cards is not according to any set pattern but is dependent upon how the cards find their place in the shuffled pack. From this alone, it cannot be said that rummy is a

game of chance and there is no skill involved".

8. Therefore, the game of rummy cannot be said as a game of chance and there is no skill involved. Therefore, the offence under Section 8 and 9 of Tamil Nadu Gaming Act would not attract as against the petitioners. Accordingly, this Criminal Original Petition is allowed and as such the proceedings in S.T.R.No.786 of 2011 on the file of the Judicial Magistrate - III, Salem, Salem District is quashed insofar as the petitioners are concerned. Consequently connected miscellaneous petitions are closed."

5. As already the petitioner has got sufficient protection under the order based on the judgment of the Hon'ble Supreme Court, no separate order requires to be passed in this writ petition.

6. Recording the earlier order passed by this Court, the Writ Petition is closed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

asr/rsi

To

1. The Commissioner of Police, Salem.
2. The Deputy Commissioner of Police (L & O), Sangagiri Main Road, Linemedu, Salem-6.
3. The Assistant Commissioner of Police (L & O), South Zone, Salem.
4. The Inspector of Police, Sevapettai Police Station, Sevapettai, Salem.

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GN(29/10/2020)

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