



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. (MD)No.11174 of 2020

and

W.M.P (MD) No.9759 of 2020

WEB COPY

C.M.Paulraj,
District Secretary
CPI (ML) Red Star,
Karungal & Post,
Kanyakumari District.

... Petitioner

Vs.

- 1.The Secretary,
Home Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
- 2.The Superintendant of Policce,
Kanyakumari District, Nagercoil.
- 3.The Deputy Superintendant of Police,
Nagercoil Division,
Nagercoil, Kanyakumari District.
- 4.The Inspector of Police,
Nesmony Nagar Police Station,
Nagercoil, Kanyakumari District.
- 5.The Sub Inspector of Police,
Nesmony Nagar Police Station,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarifide Mandamus, to call for the records relating to the impugned order, dated 28.08.2020, passed in Na.Ka.No.N3PS/Forecast/91/2020 by the fifth respondent and quash the same and direct the respondents to afford permission to the petitioner for conducting demonstration on the opposite side of the Collectorate, Kanyakumari District, Nagercoil, on 04.09.2020 at about 11.00 AM and Sathyagragam in continuation of it till 08.09.2020 night.

For Petitioner : Mr.J.John Jayakumar

For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor

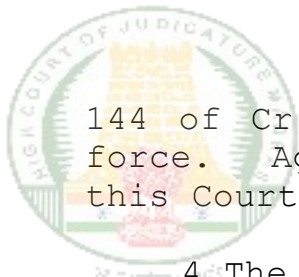


O R D E R

The petitioner filed this writ petition praying for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order, dated 28.08.2020, passed in Na.Ka.No.N3PS/Forecast/91/2020 by the fifth respondent and quash the same and also direct the respondents to afford permission to the petitioner for conducting demonstration on the opposite side of the Collectorate, Kanyakumari District, Nagercoil, on 04.09.2020 at about 11.00 AM and Sathyagragam in continuation of it, till 08.09.2020 night.

2.The learned counsel appearing for the petitioner would submit that the petitioner is the District Secretary, CPI (MD) Red Star having office in Karungal & Post in Kanyakumari District. On 11.08.2020 at about 7.00 p.m., while at the time one Ravi was coming to his house by riding his motorcycle, six known persons and ten unknown person intercepted him from proceeding further and attacked on his head and other parts of his body and caused injuries. When his wife A.Estin, and their children intervened, they were also attacked by the same persons and caused injuries. Further the persons snatched the Gold Thali Chain weighing 4 $\frac{3}{4}$ sovereign and two gold chains of her daughters each weighing one sovereign and further they damaged the TVS Jupiter Motorcycle. Thereafter, on the complaint given by A.Estin, a case has been registered against them in Crime No.440 of 2020 on the file of the Anjugramam Police Station in Kanyakumari District for the offences under Sections 147, 148, 341, 294(b), 323, 452 and 379 of I.P.C and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act.

3.The learned counsel appearing for the petitioner would further submit that after registration of the case, one Mr.Vijayakumar, who is the Investigation Officer, has not conducted the investigation properly and also he neither examined the witnesses nor seized the case properties, for which on 25.08.2020 at about 11.00 a.m., the injured persons along with their three children conducted a demonstration on the opposite side of the Collectorate, Kanyakumari District, Nagercoil, by raising the slogans with regard to the illegalities committed by the Sub Inspector of Police, Anjugramam Police Station and seeking legal action against the accused and afford protection for their life. In this regard, the petitioner herein on 27.08.2020 sent a representation by registered post in which he sought permission for conducting the demonstration on the opposite of the Collectorate on 04.09.2020 at about 11.00 a.m. On which, the fifth respondent herein passed an order in Na.Ka.No.N3PS/Forecast/91/2020, dated 28.08.2020 by stating that the permission for Satyagragam is refused on the ground that the prohibitory order passed by the Central Government under Section



144 of Cr.P.C and Section 30(2) of the Police Act 1861, are in force. Aggrieved over the said order, the petitioner is before this Court with the present writ petition.

4.The learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that only for the reason that Section 144 Cr.P.C is in force the respondents police are not in a position for granting permission. He would further submit that though the permission requested by the petitioner has been negatived, he conducted the demonstration on 04.09.2020 as scheduled in the representation, dated 27.08.2020.

5.Upon considering the arguments advanced by either side, it is not in dispute that as of now the entire nation was affected due to COVID-19. The experts are saying that if four or five persons gathered in a particular place, there may be a chance for spreading COVID-19 Virus from one person to another person and after the same there may be a possibility for further spread over the family members of the person who affected with the COVID-19 at the time of gathering. Further only in order to save the people from the said virus, the Central Government issued a prohibitory order directing the public to maintain the social distance.

6.In the said circumstances, I am of the considered opinion that though the prayer sought for by the petitioner under Article 19(1)(a) and 19(1)(b) of the Indian Constitution, the same cannot be considered by considering the present situation which would found all over India. Therefore, it is not the time to consider the prayer sought for by the petitioner, though the application has been filed by following legal principals. The act committed by the petitioner by conducting the demonstration even after knowing the order passed in the representation dated 27.08.2020, is highly contemned. However, according to the learned Additional Public prosecutor, a case has been registered against the petitioner for violating the law.

7.In the light of the above discussion, no further order is necessary in this writ petition. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

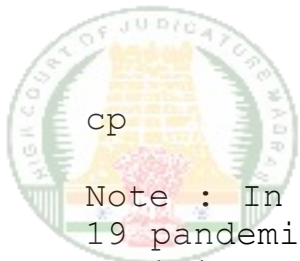
Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Secretary,
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SCR(CO)
KM (25.09.2020) 4P 6C