



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

W.P. (MD)No.12876 of 2020

K.Ganapathy

... Petitioner

Vs.

1.The Superintendent of Police,
Madurai District Police Office,
Alagarkoil Road,
Madurai - 2.

2.The Deputy Superintendent of Police,
Peraiyur Division,
Peraiyur,
Madurai District.

3.The Inspector of Police,
Peraiyur Circle Station,
Peraiyur,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the third respondent in C.No.09/Peraiyur Circle/2020, dated 22.09.2020, quash the same and direct the third respondent to accord his permission and protection to conduct demonstration by the petitioner in Peraiyur Mukkuchalai on 25.09.2020 at 11.30 a.m. or other date as agreed by the respondents in the next week, by considering the representation given by the petitioner, dated 23.09.2020.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the third respondent in C.No.09/Peraiyur Circle/2020, dated 22.09.2020, and direct the third respondent to accord his permission and protection to conduct demonstration by the petitioner in Peraiyur Mukkuchalai, on 25.09.2020 at 11.30 a.m. or other date as agreed by the respondents in the next week.

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

3.The petitioner is the District Secretary of Makkal Viduthalai



Katchi, Madurai West. One Minor Ramesh died under the police custody of the third respondent on 17.09.2020. The death is due to the torture given by the Sub-Inspector of Police attached to the third respondent Police Station in respect of the F.I.R. in Crime No.1852 of 2020, which was registered for Woman Missing.

WEB COPY

4. During the time of investigation, the Sub-Inspector of Police took illegal custody of the Minor Ramesh and harassed him physically and mentally asking the whereabouts of the missing girl. Ultimately, due to the harassment given by the Sub-Inspector of Police, the said Ramesh committed suicide. Even after knowing the same, the investigation in respect of the death of Ramesh is not conducted in a fair manner, since the alleged accused in the occurrence, was working in the very same Police Station. Therefore, as a Political Party, for protecting the fundamental law, civil rights and to ensure justice to all, the petitioner has given a representation to the third respondent praying to give protection for public demonstration on 25.09.2020 at 11.30 a.m. The said representation was negatived by the third respondent and therefore, the petitioner is before this Court.

5. Now, on going through the impugned order passed by the third respondent, it would reveal that only due to the reason that 144 Cr.P.C. proceedings are in force and also due to implementation of Section 30(4) of the Police Act, protection cannot be granted for public demonstration.

6. In this regard, the learned counsel appearing for the petitioner would submit that conducting demonstration after observing social distance is the fundamental right and therefore, setting aside the impugned order dated 22.09.2020, passed by the third respondent is very much necessary for protecting the fundamental rights guaranteed by the Constitution of India.

7. Though the submission made by the learned counsel appearing for the petitioner may be genuine one, now, it is brought to the knowledge of this Court that earlier some of the persons filed a Criminal Original Petition for transferring the investigation in respect of the case registered for the death of the said Ramesh. The said application is still pending on the file of this Court. Therefore, after approaching the competent forum, demanding the first respondent to transfer the investigation and take action against the erring officer, by way of public demonstration, is not at all necessary at this stage.

8. More than that, all are aware due to COVID-19, the entire nation has been suffered and the people are advised to follow the social distance. In the said circumstances, if any favourable order is passed in favour of the petitioner, it would lead to create a path for spreading out COVID-19.



9. In view of the above, this Court is of the view that the impugned order passed by the third respondent is well within law and therefore, this Writ Petition filed by the petitioner, is devoid of merits and the same is liable to be dismissed. Accordingly, it is dismissed. No costs.

Sd/-

Assistant Registrar (ASII)

// 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 Superintendent of Police,
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Madurai - 2.
2. The Deputy Superintendent of Police,
Peraiyur Division,
Peraiyur,
Madurai District.
3. The Inspector of Police,
Peraiyur Circle Station,
Peraiyur,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.K. KANNAN, Advocate (SR-18443[F] dated 30/09/2020)

W.P. (MD) No.12876 of 2020
28.09.2020

SJ(CO)
KB(07.10.2020) 3P 6C