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W.M.P.No.25779 of 2022

Reserved on : 30.09.2022

Date of Verdict : 18.10.2022

W.M.P.No.25779 of 2022

in

Rev. Aplw.SR.No.108585 of 2022

in

W.P.No.24540 of 2022

G.K.ILANTHIRAIYAN, J.

This petition has been filed to grant leave to prefer review application against the common order dated 22.09.2022 passed in W.P.No.24540 of 2022 etc., batch on the file of this Court.

2. The petitioners in W.P.No.24540 of 2022 etc., batch filed Writ Petitions to permit them to conduct procession (route march) wearing their uniform viz., dark olive green trousers, white shirt, cap, belt, black shoes, led by a musical band in the respective route on 02.10.2022 and also to conduct public meeting in pursuant to their respective representation. However, the respondents 2 to 5 herein failed to consider the same as such, they filed Writ Petitions to direct them to grant permission to conduct procession and public meeting.



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3. This Court considered the rival submission and directed the respondents 2 to 5 herein to grant permission to conduct procession and to conduct public meeting on 02.10.2022 at various places subject to certain conditions on or before 28.09.2022. Aggrieved by the same, the petitioner intended to file petition to review the order passed by this Court on various grounds. However, the petitioner is not a party to the Writ Petitions and as such, filed this present petition seeking leave to prefer review applications.

4. The learned counsel appearing for the petitioner submitted that the petitioner is the founder, President and Member of Viduthalai Chiruthaikal Katchi and a Member of Parliament from Chidambaram constituency. He is also Member of various organizations, which have been functioning for the cause of general public. These organizations have been functioning for the past several years to eradicate the communalism and bring the social harmony to the society.

4.1. He further submitted that the Writ Petitioners in W.P.No.24540 of 2022 etc., batch affiliated in the organization of Rashtriya Swayam Sevak Sangh (herein after referred to as “R.S.S.”) and approached this Court for permission to conduct the procession and to conduct public meeting in order to celebrate



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75th year of Independence of our country, the birth centenary of Bharath Ratna

Dr.B.R.Ambedkar and Vijayadasamy at various places in different district in

Tamil Nadu. This Court by an order dated 22.09.2022, directed the respondents 2 to 5 herein to grant permission to conduct procession and to conduct public meeting on 02.10.2022 with certain conditions.

4.2. However, the petitioner quoted various incidents and stated that while the Writ Petitioners' organization conducted procession for the past several years they were indulged in violence. They failed to follow the Indian culture and they did not contribute to the nation building. They are trying to divide the people by creating communal violence. RSS does not accept secularism. Therefore, under the pretext of procession, the Writ Petitioners planned to disrupt law and order and public peace. Hence, the petitioner's party invited the public to participate in the social harmony procession to uphold the nation integrity and dreams of Mahatma Gandhi and Dr. Ambedkar. The social harmony procession scheduled to be held on 02.10.2022 in all parts of Tamil Nadu, thereby conduct a procession in various parts of Tamil Nadu and therefore, the communal outfit from RSS will give trouble to them during rally. If such situation arises, there will be a public disruption. Though this Court



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directed to grant permission with certain conditions, the Writ Petitioners' organization will not obey the conditions and high handedly act to disrupt the public order by creating enmity between groups. Therefore, the petitioner filed this petition to grant leave to review the order passed by this Court.

4.3. He further submitted that the Registry of this Court ought not to have numbered the Writ Petitions as criminal. Mere inclusion of police personnel doesn't mean that the Writ Petitions to be numbered under criminal. Further, this Court ought to have considered the antecedents of the Writ Petitioners' organization before granting permission to hold procession and conduct public meeting, since they indulged in violence while carrying procession which is against the interest of common public. The order passed by this Court is in violation to the reasonable restrictions imposed under the Article 19(2) of the Constitution of India. However, the official respondents failed to bring to the notice of this Court sequel to the prevailing situation in the various district of Tamil Nadu which was triggered by the Writ Petitioners' organization.

4.4. He also submitted that this Court failed to consider the nexus between the ideology of Dr.Ambedkar and the Vijayadasami, which was



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projected by the Writ Petitioners. The ideology nexus must have been taken into

account before granting such permission to hold procession and public meeting.

Further, 75th Anniversary of independence of celebration should have been celebrated on 15th August, whereas the Writ Petitioners' organization planned something with an ill motive to do wrong on the day of second October.

Therefore, this Court ought not to have granted permission on the ground security of the State and public order stated in the reasonable restrictions enumerated under Article 19(2) & (4) of the Constitution of India. In support of his contention, he relied upon the following judgments :-

(i) C.W.P.No.7919 of 2010 – Aruna Sood Vs. State of H.P. and ors dated 03.08.2011

(ii) W.A.SR.No.92091 of 2021 – Abirami Vs. The Superintendent of Police and ors dated 15.12.2021

(iii) W.A.SR.No.79295 of 2021 – Ellora restaurant, rep by its Proprietor vs. Commissioner of Police and anr - dated 16.02.2022

(iv) (2017) 5 SCC 533 – Ram Kishan Funji Vs. State of Haryana and ors.

(v) (2019) 9 SCC 154 – P.Surendran Vs. State by Inspector of Police.



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5. According to the petitioner, he is the founder, President of Viduthalai Chiruthaikal Katchi (VCK) and a Member of Parliament from Chidambaram constituency. The apprehension of the petitioner is that on the permission granted by this Court, if the Writ Petitioners' organization permitted to conduct procession and public meeting, they may indulged in violence while carrying procession and they may disrupt law and order & public order. Similarly, the petitioner party also invited the general public to participate in the social harmony procession on the same day i.e., on 02.10.2022 and requested permission from the concerned authority to conduct procession in various parts of Tamil Nadu. Therefore, the communal outfit from the Writ Petitioners' organization will give trouble to them during rally. If such situation arises, there will be a public disruption. Further the petitioner's procession is entirely different from the Writ Petitioners' procession and the RSS intended to hold in the guise of Dr.Ambedkar and Mahatma Gandhi and 75th year of independence of our country.

6. It is also seen that though this Court directed the respondents 2 to 5 herein to grant permission to conduct procession and public meeting to be held on 02.10.2022 by an order dated 28.09.2022, all the representation submitted by



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the Writ Petitioners were rejected and refused to give permission by the respondents 2 to 5 herein. Therefore, the Writ Petitioners approached this Court by way of Contempt Petition in Cont.P.No.2111 of 2022 etc., and the same are pending before this Court.

7. The only points for consideration in this petition is that,

(a) Whether the petitioner has locus to review the order passed by this Court or not?

(b) Whether the petitioner raised sufficient grounds to make out a prima facie case to find out any error apparent on the face of the order passed by this Court to review the same?

8. Admittedly, the petitioner is not a party to the Writ Petitions. If at all the petitioner had any grievances over the order passed by this Court, he can very well file an appeal as against the order passed by this Court in the manner known to law. The petitioner without preferring any appeal against the order passed by this Court, he filed the Review Application to review the order passed by this Court on the aforesaid grounds. In the Review Application, the petitioner did not even whisper about the ground that the Registry of this Court ought not



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to have number the Writ Petitions under criminal, when the Writ Petitions are consisting of civil rights.

9. The learned counsel appearing for the petitioner submitted that the Registry has no power to number the Writ Petitions under criminal. Mere inclusion of police personnel doesn't mean that the Writ Petitions come under the criminal. In support of his contention, he relied upon the judgment reported in **(2017) 5 SCC 533** in the case of **Ram Kishan Fauji Vs. State of Haryana & ors.**, in which the Hon'ble Supreme Court of India held that in a proceeding under Article 226 of Constitution of India, consisting of civil rights, the proceedings are civil in nature falling within the ambit of Clause 10 of the Letters Patent. Further held that the said Writ Petition was filed under Article 226 of the Constitution of India for quashing of the recommendation of the Lokayukta and the said recommendation would have led to launching of criminal prosecution. It was treated in Writ Petition criminal side. In such circumstances, to hold that in exercise of jurisdiction under Article 226 of the Constitution of India, has passed an order in a civil proceedings as the order that was challenged was that of the quasi-judicial authority, i.e., Lokayukta, would be conceptually fallacious. It is because what matters is the nature of the proceeding and that is the litmus test. Whereas in the case on hand, the Writ Petitioners submitted



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representation seeking permission to conduct procession and public meetings before the police personnel and it is also related law and order issues. It doesn't contain any civil right to treat the Writ Petitions under civil in nature. Therefore, the above judgment is not applicable to the case on hand. The Registry of this Court rightly numbered the Writ Petitions under criminal.

10. The learned counsel appearing for the petitioner relied upon the order ***dated 16.02.2022*** passed in ***W.A.SR.No.79295 of 2021*** in the case ***Ellora restaurant, rep by its Proprietor vs. Commissioner of Police and anr.***, in which this Court after considering Ram Kishan Fauji case held that the nature of right, which is violated, has to be taken into account and the authority, passed the order, cannot be the sole determining factor. Therefore, just because the Commissioner of Police is exercising powers, it cannot be said to be a matter of criminal in nature.

11. In another case, the Hon'ble High Court of Himachal Pradesh at Shimla, in the judgment dated 03.08.2011 in ***C.W.P.No.7919 of 2010*** in the case of ***Aruna Sood Vs. State of H.P. And ors***, held that the judgment in a Writ Petition cannot be avoided by filing another Writ Petition. The remedy open to



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the petitioner is either to file a third party review or to file a third party appeal.

One of the principles behind such a well settled position is to avoid multiplicity of litigations and to prevent abuse, if not misuse of process of the Court. This case also not applicable to the case on hand, since the present application has been filed to grant leave to review the order passed by this Court. If at all any grievances over the order passed by this Court, the petitioner can very well challenge the same in the manner known to law. Now the Review Application has been filed as against the order passed by this Court with the subject as per roster as Writs Criminal. Therefore, the submission made by the learned counsel appearing for the petitioner that the Registry ought not to have numbered the Writ Petitions as criminal, cannot be accepted, since it is against the principles of Clause 15 of Letters Patent Act.

12. It is relevant to rely upon the judgment reported in **(2017) 5 SCC 533** in the case of ***Ram Kishan Fauji Vs. State of Haryana and ors***, in which the Hon'ble Supreme Court of India held that a criminal proceeding is ordinarily one in which if carried to its conclusion it may result in the imposition of sentences such as death, imprisonment, fine or forfeiture of property. It also includes proceedings in which in the larger interest of the State, orders to



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prevent apprehended breach of the peace, orders to bind down persons who are a danger to the maintenance of peace and order or orders aimed at preventing vagrancy. It is squarely applicable to the case on hand that the proceedings including larger interest of State, orders to prevent apprehended breach of the peace coming under the criminal proceedings. Therefore, the Registry of this Court rightly numbered the Writ Petitions under criminal proceeding.

13. Insofar as the prayer to grant leave is concerned, admittedly, the petitioner is not a party to all the Writ Petitions and he is no way connected with the Writ Petitioners. The relief sought for in the Writ Petitions is that they were seeking permission to conduct procession and public meeting on 02.10.2022. The grievance of the petitioner is that the petitioner also sought for permission to conduct procession on the same day in all parts of Tamil Nadu. However, the said request was also rejected by the authority concerned. If at all the petitioner aggrieved by the order passed by this Court, he can very well challenge the said order in the manner known to law. Therefore, the petitioner has no locus to review the order passed by this Court. Mere the petitioner also sought for permission to conduct procession on the same day viz., on 02.10.2022., it doesn't give any right to the petitioner to review the order passed by this Court.



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It is nothing but clear abuse of process of Court.

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14. That apart, the grounds raised by the petitioner are applicable only to challenge the order passed by this Court and not for review, since there is no apparent error on the face of records as such the petitioner failed to make any ground to review the order passed by this Court. Considering the above facts and circumstances, this Court finds no merits in the Review Application to review the order dated 22.09.2022 passed by this Court in W.P.No.24540 of 2022 etc., batch. Hence, the present petition to grant leave to file Review Application is liable to be dismissed.

15. Accordingly, the Writ Miscellaneous Petition stands dismissed and the Review Application in Rev.Applw.SR.No.108585 of 2022 is hereby rejected.

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Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

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Order in
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