



*Crl.O.P.(MD)No.1531 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.01.2023**

CORAM

**THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA**

**Crl.O.P.(MD)No.1531 of 2023**

S.Selvi

... Petitioner

Vs.

1.The Superintendent of Police,  
Kanyakumari District, Nagarcoil.

2.The Inspector of Police,  
Marthandam Police Station,  
Kanyakumari District.

3.P.Wilson

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the second respondent not to disturb peaceful prayer jointly in the petitioner's house and its related activities at Door No.15144 Perumtharaivilai, Pacode Post – 629 168, Vilavancode Taluk, Kanyakumari District.

For Petitioner : Mr.M.Punitha Deva Kumar

For R1 & R2 : Mr.SS.Madhavan  
Government Advocate (Crl. Side)



*Crl.O.P.(MD)No.1531 of 2023*

## **ORDER**

WEB COPY

This petition has been filed seeking direction to direct the second respondent not to disturb the peaceful prayer jointly being held at the house of the petitioner and its related activities at Door No.15144 Perumtharaivilai, Pacode Post – 629 168, Vilavancode Taluk, Kanyakumari District.

2. The case of the petitioner is that few years ago her family members were suffering from illness and business loss and they got disgusted with life and they have gone to the extreme level of ending their life. During such time they attended a joint prayer meeting held at Marthandam in Kanyakumari District and they received some solace and thereby, they wanted their common friends to joint them for prayer in their house and her family members conducted family prayer in their house. The petitioner had not used any loud speaker or instruments during such time and their neighbors and people living around the area have also not made any objection to the petitioner conducting prayer in their house and no complaints have been made by any persons in the vicinity, whereas some miscreants who do not live in the vicinity



*Crl.O.P.(MD)No.1531 of 2023*

claiming themselves to be the members of some religious organization are interfering with them in conducting peaceful prayer in their house.

Further based on their complaint the respondent police are also preventing the petitioner's family members from conducting peaceful prayer in their house, thereby the petition has been filed seeking to direct the second respondent not to disturb the peaceful joint prayer and related activities in their house.

3. The learned counsel appearing for the petitioner would further submit that the petitioner is conducting joint prayers in the house without disturbance to anybody. There is no complaint from their neighbors or persons living in their village or in the vicinity, whereas some persons who are not the residents of the area claiming themselves to be the member of some religions organization are unnecessarily disturbing them and further based on their complaint, the respondent police are also preventing them from conducting joint prayers in their house in a peaceful manner. The petitioner is also not using any musical instruments and are not causing annoyance to anybody.



*Crl.O.P.(MD)No.1531 of 2023*

4. The learned counsel would further submit that Article 25 of the Constitution of India gives freedom of conscience, freedom of profession, practice and propagation of religion, whereas the respondent police, instead of taking action against the miscreants, who are no way affected by the prayer, are dancing to their tunes of the miscreants who are illegally preventing the petitioner from conducting peaceful prayer in their house and thereby the present petition has been filed.

5. The learned Government Advocate(Crl.Side) would submit that the petitioner is conducting prayers in their house. Further he would submit that there is no complaint from any neighbour or persons from the village and he would submit that the respondents are not interfering with the prayer conducted in peaceful manner and disturbance to anybody.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. It is the case of the petitioner that joint prayer is being conducted at her residence in a peaceful manner along with her relatives



*Crl.O.P.(MD)No.1531 of 2023*

and friends. Further it is the case of the petitioner they are not causing any annoyance or disturbance to others in their locality. No loud speakers or sound system is used for conducting prayers and there is no complaint from any neighbors or persons in the village, where some miscreants who claim to be members of a religious organization and who are not from the village are illegally preventing them from conducting prayers at their home. It is also admitted by the respondent that there is no complaint from the neighbors or any one from the village.

8. In W.P.(MD)No.710 of 2019, dated 11.01.2019 filed by a person, similarly placed as that of the petitioner this Court has held as follows:

*“14. Following the above decisions and the fundamental rights guaranteed under the Constitution of India to the citizens, in the opinion of this Court, there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place without causing nuisance or disturbance to others and without causing hindrance to the general public. It is the duty of the authorities to safeguard the protection of every citizen of this Country to practise constitutional rights guaranteed under the Constitution of India. However, in a civilized Society in the name of religion, activities, which disturb others, in any manner and for bona fide reasons, cannot be permitted and hence, if there is any nuisance caused due to noise pollution or for any other bona fide reasons, it is always open to the authorities to take necessary action under the provisions of the relevant statutes. But, before resorting to any action, the authorities, on the basis of concrete evidence, should arrive at a subjective satisfaction that there exists infringement of a*



*Crl.O.P.(MD)No.1531 of 2023*

*right of others, under the Constitution of India, to enforce public order.”*

WEB COPY

9. In the above order of this court had referred to earlier orders of this court passed in similar circumstances.

- a) CDJ 2007 MHC 5279 (Sadhu C.Selvaraj Vs. The Collector, Kanyakumari)
- b) 2005 4 CTC 171 (Albert Raj Vs. The District Collector, Kanyakumari District at Nagercoil)
- c) Order, dated 14.08.2012, made in WP(MD)No.10782 of 2006, of the Madurai Bench of the Madras High Court.
- d) Order, dated 13.08.2007, made in WP(MD)No.6732 of 2007, of the Madurai Bench of the Madras High Court.
- e) Order, dated 30.04.2008, made in WP.No.4151 of 2008, of the Madras High Court.
- f) Order, dated 14.12.2012, made in WP(MD)No.13336 of 2007, of the Madurai Bench of the Madras High Court.
- g) Judgement, dated 03.01.2017, made in WA(MD)No.1349 of 2013, of the Madurai Bench of the Madras High Court.
- h) Order, dated 28.11.2011, made in Crl.OP(MD)No.15462 of 2011, of the Madurai Bench of the Madras High Court.
- i) Order, dated 31.08.2018, made in WP(MD)No.18955 of 2018, of the Madurai Bench of the Madras High Court.
- j) Order, dated 09.03.2018, made in Crl.OP(MD)No.3039 of 2018, of the Madurai Bench of the Madras High Court.

10. In view of the above and under such circumstances, this Court does not find any reason as to why the petitioner should not be permitted to conduct such prayers in her own residence.



*Crl.O.P.(MD)No.1531 of 2023*

11. This criminal original petition is disposed of with the direction to the respondents not to interfere with the right of the petitioner, conducting house prayer along with relatives and friends at the residence of the petitioner situated at Door No.15144 Perumtharaivilai, Pacode Post – 629 168, Vilavancode Taluk, Kanyakumari District. The petitioner shall ensure that this prayer does not in any way cause any hindrance to the general public and does not in any way give rise to any law and order problem. If any law and order problem is created by any miscreants, then certainly, the respondent police is bound to take appropriate action.

**27.01.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
csm

***Note : Issue order copy on 24.02.2023***

To

- 1.The Superintendent of Police,  
Kanyakumari District, Nagarcoil.
- 2.The Inspector of Police,  
Marthandam Police Station,  
Kanyakumari District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

7/8



WEB COPY



*Crl.O.P.(MD)No.1531 of 2023*

**A.D.JAGADISH CHANDIRA,J.**

csn

Order made in  
**Crl.O.P.(MD)No.1531 of 2023**

Dated: 27.01.2023