



Crl.R.C.No.1035 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.08.2024

Pronounced on: 05.09.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.R.C.No.1035 of 2024
& Crl.M.P.No.8785 of 2024

M/s. Surya Society for Social Service
Rep. by its President Mr. Bonam Sriramakrishna
Having Office at D. No. 1-12-001 & 1-12-012,
New Bus Stand Road,
Mettacur, Yanam 533 464.

.... Petitioner

/versus/

1. The Sub Divisional Magistrate, Yanam.
D.No.7-7-007, GMC Balayogi Marg,
Govt. House,
Yanam, Pondicherry – 533 464.

2. The Superintendent of Police,
Yanam, Yanam Police Station,
Yanam, Pondicherry – 533 464.

.... Respondents

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., 1973 to call for the records in No. 315/SDMY/D1/Clubs/2024 on the file of the 1st Respondent herein and set aside the impugned order dated 13.06.2024 and allow this revision petition.

For Petitioner : Mr.Srinath Sridevan, Senior Counsel,



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for Mr.Surya Teja SS Nalla

For R1 : Mr.Ramaswamy Meyappan,
Government Advocate (Pondy)

For R2 : Mr.K.S.Mohandass, Public Prosecutor
Assisted by N.Dhanalatchumi

ORDER

The order of the Sub-Divisional Magistrate of Yanam dated 13/06/2024 passed in exercise of power under Section 144 Cr.P.C is the subject matter under challenge in this revision petition.

2. The order reads as below:-

“Whereas, it has been made to appear to me from the representations of present MLA of Yanam Assembly Constituency and Special Representative to Govt of Puducherry at New Delhi and majority of Yanam people since the year 2021 that the functioning of gambling clubs in the name of recreational clubs/society causing nuisance and spoiling the general public and in particular the youth community besides affecting law and order in



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large scale in Yanam region.

And Whereas, recently, the club, by name Surya Society for Social Service, being operated by you from D.No.1-12-001 & 1-12-012, New Bus Stand Road, Mettacur Revenue Village, Yanam received lot of complaints from public either in the form written representation or orally through phone.

And Whereas, in order to ascertain the averments made by the different quarters of the people in Yanam regarding the functioning of said recreation club, the undersigned has directed the Superintendent of Police, Yanam for a detailed report and the particulars of cases registered against them.

And Whereas, the Superintendent of Police. Yanam has furnished a detailed report and narrating therein the problems being faced by the Police in controlling the issues like identification of history sheeters, rowdies elements who intrudes to Yanam in guise of public hailing from nearby districts of Andhra Pradesh State, heavy traffic congestion due to frequented by gamblers from the nearby districts



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of Andhra Pradesh, maintaining law and order issue in case if any rival groups, which are rich in man and muscle power engaged in bloody quarrels. Further, the Superintendent of Police has furnished the details of case registered against the Society vide Cr.No.105/2022 dated 30.09.2022.

And Whereas, citing the law and order issue, the said Society has issued with a show cause notice on 10.06.2024 by the undersigned to illustrate the reasons as to why should not your Society be closed to maintain law and order in Yanam region, within 3 days from the receipt of the order.

And Whereas, in response to the said show cause notice, the Society has furnished its reply in its letter addressed to the Sub Divisional Magistrate on 12.06.2024 signed by the President of the Society. Wherein, the President has simply stated that the Hon'ble High Court has already quashed the orders passed by the undersigned, directed police authorities not to interfere in Social activities. The Hon'ble High Court has never stop the action of the police and regional administration taken on merits or



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uphold the interest of the public. To maintain law and order, the foremost important thing to run the administration and whatever things happening against the will of people or disturbing the peace and tranquility of the region, stringent action needs to be taken.

And Whereas, in its order dated 19.05.2024, the Commissioner, Yanam Municipality, has stated that the Trade License to M/s. Surya Society for Social Services was issued by the ex-Commissioner, Yanam Municipality in violation of Municipal Acts and Rules and hence he was placed under suspension and subsequently the License issued by him also nullified. On the score, the present Commissioner has directed you to stop your activities. Therefore, there are sufficient grounds to proceed against you for the preservation of public peace and maintenance of public order. The gaming activities in the club may likely to cause breach of peace and disturb the public safety.

And Therefore, in view of the reasons at supra,
I, R. Mounissamy, Sub Divisional Magistrate, Yanam,



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have reasons to believe that allowing your Society to function in Yanam will not only causing nuisance to general public but also affecting law and order badly since your reasons putforth with reference to this office's show cause notice are not satisfactory. As such, you are directed to close down all the activities being carried out in the name of Surya Society for Social Service, immediately, failing which, your premises will be sealed by the concerned."

3. This Court hereby clarify that the grant of license by the Commissioner, Yanam Municipality in exercise of power under Section 349 of th Pondicherry Municipalities Act to run a Trade is different from interference of the Executive Magistrate in the Trade, exercising power under Section 144 Cr.P.C to maintain public peace and tranquillity. The object and field of operation of these two statutes are different and does not exclude each other. So, grant of license to Trade under the Municipal Act, *per se* will not entitle the Trader to cause disturbance to peace and tranquillity of the public while carrying out his Trade. If any such disturbance to public peace and Tranquillity is caused by the Trader, the Executive Magistrate is fully empowered to invoke his power under Section 144 Cr.P.C.



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4. In the penultimate paragraph of the impugned order dated 13/06/2024, issued by the Sub-Divisional Magistrate, Yanam, it is apparent that the cancellation of the Trade License by the Commissioner of Yanam Municipality has substantially influenced the decision of the Executive Magistrate. Whereas, on the day, the Executive Magistrate passed the impugned order, the order of the Municipal Commissioner, Yanam was under challenge and stay granted by the Court was in force.

5. No doubt the impugned order is explicit with the reasons for which the club ordered to be closed. The only point which appears to be improper is the reference of the cancellation of license granted on 09/01/2024, but the failure to take note of the stay of the cancellation granted by this Court on 24/05/2024 in W.P.No.14129/2024, thus make it bad for non-application of mind.

6. For the said reason, without prejudice to his power to issue fresh notice and proceed if the situation to invoke his power under Section 144 of



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Cr.P.C prevails, the order of the 1st respondent/Sub-Divisional Magistrate, Yanam Municipality, dated 13/06/2024 is quashed,

7. Accordingly, this Criminal Revision Case No.1035 of 2024 is disposed of with the above observation and direction. Consequently, connected Miscellaneous Petition is closed.

05.09.2024

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order.
bsm

To:-

1. The Commissioner, Yanam Municipality, Yanam.
2. The Superintendent of Police, Yanam, Yanam Police Station, Yanam, Pondicherry – 533 464.
3. The Public Prosecutor (Puducherry), Madras.



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DR.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
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05.09.2024