

(2002) 08 MAD CK 0064

In the Madras High Court

Case No : Writ Petition No. 29724 of 2002 and WP. MP. No"s. 48206 and 48207 of 2002

R. Thirumavalavan

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 09-08-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Madras City Police Act, 1888 — Section 41(4)

Citation : (2002) 08 MAD CK 0064

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Advocate : K. Chandru, for K. Balakrishnan, for the Appellant; I. Subramanian, Public Prosecutor for D. Krishnakumar, Special Government Pleader, for the Respondent

Judgement

V. Kanagaraj, J.—Writ petition praying to issue a Writ of Certiorarified mandamus calling for the records of the Deputy Commissioner of

Police, Tiruchirappalli City, the 3rd respondent herein culminating in Na.Ka.No.148-1/A/T/DB/L&O/T.D./2002 dated 7.8.2002 quash the same

and direct the 3rd and 4th respondents to permit the petitioner to take out a peaceful and regulated procession on 12.8.2002 on the route set out

in the application dated 29-7-2002.

2. In the affidavit filed in support of the writ petition, the petitioner would submit that he is the general Secretary of Dalit Panthers Movement

known as ""Viduthulai Siruthaigal"" a social organisation, meant for development of the scheduled caste and minorities in Tamil Nadu, Andhra

Pradesh, Karnataka and Bombay; that they are fighting for the rights of the Dalits and the minorities; that while so in the month of April 2002, in

Thinnam village near Trichy, scheduled caste persons, viz. Murugesan and Ramaswamy were compelled by one Rajalakshmi ex-president of

Thinnam village and her husband Subramanian to eat the human excreta that in spite of the local police informed of the incident, the police did not

initiate action against the miscreants and ultimately after intervention of the petitioner organisation, they registered a case under the provisions of

Scheduled caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989; that it was decided in their council meeting to conduct a procession at

Trichy on 12.8.2002 to condemn the action of the above caste out fits who are responsible for the said atrocious act; that it was further resolved

that the cadre from all over Tamil Nadu, Karnataka and Andhra Pradesh would assemble at the National College Ground, Trichy on 12,8.2002 at

about 2 p.m. and from there to go on procession via Gandhi Market, Balakarai, Head Post office, Railway Station and Khadikraft to reach the

place of the public meeting at about 5 p.m that day; that in spite of a letter addressed to third and fourth respondents seeking permission with

assurance that the procession would be peaceful and would conform the instructions of the police, the third and fourth respondent police turned out

the petitioner's request to take out the procession and hence this writ petition seeking the relief extracted supra.

3. Today, when the above writ petition was taken up for consideration in the presence of the learned Senior counsel appearing on behalf of the

petitioner movement and the learned Additional Government Pleader (Writs) representing the respondents, the learned senior Counsel would

exhort that it is denial of the due guaranteed under the Constitution for the petitioner by the police which cannot occur in a free society like that of

ours and would also cite a Judgment of a single Judge of this court delivered in Nedumaran, P. Vs. State of Tamil Nadu and others reported in

2000 W.L.R. 205 wherein a similar procession was permitted on certain conditions imposed by the learned Judge, following which, a similar order

could be passed by this court also in the case in hand permitting the petitioner to take out the procession.

4. In the course of arguments, the learned Senior counsel would also point out Section 41(4) of the Madras City police Act, 1888 wherein it is

prescribed:

Except in cases where immediate action is necessary for the preservation of the public peace or public safety, no order refusing to grant

permission shall be passed under clause (b) of sub-section (3) without giving the person concerned an opportunity of appearing before the

Commissioner either in person or by pleader and showing cause against the order refusing to grant permission and the Commissioner shall record

in writing the reason for such order.

5. Learned senior counsel would lament that even without an opportunity that is contemplated under this provision of law, the respondents police

have rejected the request of the petitioner, which is not only against the dictum of law, but also against all norms and procedures and the high

principles of natural justice.

6. On the part of the learned Public Prosecutor, citing a recent order made by the Apex Court in a Civil Appeal in C.A. No.7926 of 2001 dated

7.1.2002, wherein pending disposal of the civil appeal, the Full Bench of the Apex Court while posting the said case after six weeks for filing

counter affidavit, in the meantime, it has held that "no District Collector or Police Commissioner shall permit any main street or road in the State of

Tamil Nadu to be blocked for the purpose of any meeting, procession, etc."

7. Learned Public Prosecutor would exhort that the said order is still in force and it could not be taken as an order applicable only to that case

since it has got wider connotation applicable to all the main streets or roads in the State of Tamilnadu and therefore, the route through which

permission is sought for by the petitioner to take out the procession entirely falls within the periphery of the description of the Supreme Court

judgment cited supra, and since the same being main street or road, the third respondent has every reason to reject the application of the petitioner.

8. However, the learned Public Prosecutor fairly suggests that avoiding the main streets, if some other route is suggested which would not fall under

the purview of the Supreme Court Judgment, they could advise the respondents to consider, for which proposal, the petitioner too, in

reconsideration of the same, would come out suggesting an alternate route for the procession to be taken out on 12.8.2002.

9. The new route suggested is within the Cantonment Range via Vestry Roundtana - Sangam Hotel- Collectorate Junction - Medical College -

Gorimedu - Dindigul Road Junction - Aristo Roundtana - Zonal Point - Khadhi Craft Junction.

10. On being apprised of the new route suggested on the part of the petitioner, the learned Public Prosecutor, in consultation with the fourth

respondent, viz., the Inspector of Police, Kottai Police Station, Trichy, would approve the said route and hence the following order.

In result,

(i) the impugned order dated 7.8.2002 made in the third respondent's Roc. No.148-1/A/T/DB/L&O/T.D./2002, is quashed;

(ii) the above writ petition is allowed in part permitting the petitioner to take out the procession in the route specified in para. No.9 above, subject

to the following conditions.

(a) the procession shall not cause any traffic obstruction or hindrance to the public;

(b) Police personnel of and above the rank of S.I. on duty is empowered to declare the procession illegal and cancel the permission at any point of

time without giving prior notice, if any of the condition is violated;

(c) The organiser shall convey the conditions to the speakers and other important leaders of their party and other leaders;

(d) the processionist should go in a row of five in the left half of the road leaving the right hand side road free;

(e) the beginning of the procession should be punctual at the given time;

(f) Processionist should not carry any weapons, sticks, metal rods, etc.;

(g) they should not deviate the route and break in en-route;

(h) the procession should not be stopped in any particular point and the processionist should not indulge in any sort of slogan shouting and

demonstration, picketing, etc.

(i) Slogans should not be provocative, anti-national in political and communal aspects;

(g) Objectionable placards, photos and banners should not be carried out by the processionist;

(iii) So far it is concerned with the timings, it is negotiable in consultation with the fourth respondent, preferably avoiding the peak hours.

The writ petition is disposed of in the above manner. No costs.