
(2014) 11 MAD CK 0213

In the Madras High Court

Case No : W.P(MD) No. 19350 of 2014 and M.P(MD) No. 1 of 2014

Radhakrishnan

APPELLANT

Vs

The Inspector General of Police

RESPONDENT

Date of Decision : 28-11-2014

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2014) 11 MAD CK 0213

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Judgement

M. Venugopal, J.—According to the Petitioner, he is an Ayurvedic Panjakarma Therapist and native of Thiruvilla Village in the State of Kerala. His ancestors had served and given Ayurvedic treatment to general public. Similarly, he had also studied Panjakarma Therapy and duly obtained certificate for doing therapy in Kerala. Now, he has come down to Tamil Nadu and learnt Siddha Medicine and has become a Life Member of "Kongu Mandala Parampariya Siddha Maruthuvargal Sangam". He has been practising Panjakarma Ayurvedic treatment for the past nine years.

2. The stand of the Petitioner is that five years ago, he had established an Ayurvedic Centre in Kodaikanal, Convent Road, in the name and style of "Vrindha Ayurvedic Massage Centre". He has obtained licence for the above Centre from Kodaikanal Municipality. He has been paying commercial tax for running the Centre. He has a certificate from the Commercial Tax Department and Tin Number is 33495321048. He is also paying sales tax as procedure prescribed by the Department then and there. His Ayurvedic Centre is assessed Income Tax for the past five years and the annual returns have been filed by him regularly.

3. According to him, he is doing his business in a proper way at his Ayurvedic Centre. In order to prevent him from doing his business, his business rivalries had instigated the Respondents 3 and 4 Police to give unnecessary harassment to him in order to stop the Ayurvedic Centre. During the year 2011, an attempt

was made by the police personnels attached to the Fourth Respondent/Police Station to close his Centre in an unlawful way. At that time, he had approached this Court and filed Crl.O.P(MD)No. 5245 of 2011, which was allowed, by this Court, on 18.10.2011. Subsequently, the Fourth Respondent Police have not interfered in the affairs of his Ayurvedic Centre.

4. Moreover, on 24.06.2013, at about 01.00 p.m., the Fourth Respondent Police along with four Police Personnels had come to his Ayurvedic Centre and called him over mobile phone and immediately rushed to his Centre. In the meanwhile, the Fourth Respondent and his subordinates had criminally trespassed into his Ayurvedic Centre and damaged the properties therein. Also, they had damaged the name board kept outside the Ayurvedic Centre. Hence, he had filed a direction petition before this Court in Crl.O.P.No. 11386 of 2013, praying for passing of an order by this Court, in directing the respondent police not to harass, ill-treat or disturb him to close down his Ayurvedic Therapy Centre functioning in the name and style of "Vrindha Ayurvedic Centre" and on 12.11.2013, this Court was pleased to allow the said Original Petition.

5. When the matter stood like that, on 22.11.2014, at about 05.00 p.m., the police personnels attached to the Fourth Respondent Police Station came to his Ayurvedic Centre and threatened him to close down the Ayurvedic Centre. When he questioned the same, Respondents 3 and 4 informed through their subordinates that the Ayurvedic Centre has to be closed and they failed to explain the reasons and they threatened him of foisting false cases, in the event of non-closer of his Centre.

6. The grievance of the Petitioner appears to be that the action on the part of the Respondents 3 and 4 in harassing him to close down his Ayurvedic Centre at the instance of his business rivalries, is clear infringement of Right to Life and Liberty flows from Article 21 of the Constitution of India. Furthermore, Respondents 3 and 4 have no jurisdiction to direct him to close down the Ayurvedic Therapy Centre and in this regard, the action of the Respondents 3 and 4 is clearly unsustainable in the eye of Law.

7. In effect, the Petitioner in the present Writ Petition has sought for passing of an order by this Court in directing the Second Respondent to restrain the Respondents 3 and 4 from any way harassing, ill- treating or disturbing him to close down his Ayurvedic Therapy Centre functioning in the name and style of "Vrindha Ayurvedic Centre" at Door No. 17/58-A2, Convent Road, Kodaikanal at the instigation of his business rivalries.

8. Conversely, it is the contention of the learned Additional Government Pleader appearing for the Respondents 1 to 4 that on 15.10.2014, the Second Respondent had received a complaint from All Parties Federation of Kodaikanal and General Public of Kodaikanal, dated 15.10.2014, and in the said complaint, it was mentioned that in the Tourist Centres, ladies working in the Massage Centres with the help of male individuals come there and distribute/hand-over visiting

cards to them, especially they are handing over the said cards to the visitors. Further, in regard to the conduct of prostitution, petition enquiry is also pending and in fact, the Respondents 1 to 4 are not harassing the Petitioner in any manner.

9. On a careful analysis of rival contentions, this Court is of the considered view that the Petitioner has to conduct the affairs of "Vrindha Ayurvedic Centre", situated at Door No. 17/58-A2, Convent Road, Kodaikanal, Dindigul District in a lawful manner. Further, this Court makes the following observations:

1. So long as the Petitioner's "Vrindha Ayurvedic Centre", engages in lawful activities, there would be no cause of action for the respondents/Police to interfere with the Petitioner's business and to take action against his employees, if any.

2. Further, this Court makes it clear that the Respondents/Police are entitled to take action in the event of any illegal activity being carried out in the Petitioner's "Vrindha Ayurvedic Centre".

3. It is made clear that the Respondents/ Police shall not disturb the Petitioner's "Vrindha Ayurvedic Centre" frequently under the guise of inspection without there being any reliable information as to the illegal activities of the Petitioner's "Vrindha Ayurvedic Centre".

4. In order to ascertain, whether the Petitioner's Ayurvedic Centre is used for any illegal activities, the Respondents/Police are entitled to cause an inspection and if they find any violation of any law or rules and regulations, then they are at liberty to take such action as they deem fit and proper based on the facts and circumstances of the case.

10. With the aforesaid observations and directions, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.