

(1956) 11 KL CK 0004
In the High Court Of Kerala
Case No : O.P. No. 307 of 1956 (T.C.)

V.G. Celastine

APPELLANT

Vs

Addl. District Magistrate, Quilon

RESPONDENT

Date of Decision : 19-11-1956

Acts Referred:

Constitution of India, 1950 — Article 226
Travancore Dramatic Performances Act, 1115 — Section 2

Citation : AIR 1957 Ker 75 : (1957) 1 KLJ 9

Hon'ble Judges : M.S. Menon, J

Bench : Single Bench

Advocate : T.C.N. Menon, for the Appellant; V. Rama Shenoi, Govt. Pleader, for the Respondent

Judgement

M.S. Menon , J.

1. The petitioner is the author of a play the performance of which has been prohibited by Ext. A dated the 15th September 1956. Ext, A reads as follows:--

"Whereas I am satisfied from the report received from the District Superintendent of Police, Quilon and other information, that the drama entitled "Ponkurlsu Athava Rendare Laksham" written by Shri. V.G. Celestine, Vaddy, Quilon contains scandalous and defamatory matter and that its performance in a public place is likely to deprave and corrupt persons who are present at the performance.

I.P.I. Jacob, Additional District Magistrate, (Ind) Quilon, do hereby prohibit the performance in public of the above drama in any place within this district u/s 2 of the Travancore Dramatic Performance Act 1115".

2. Section 2 of the Travancore Dramatic Performance Act, 1115, is in the following term"s:

" (1) Whenever Our Government is of opinion that any play, pantomime or other

drama performed or about to be performed in a public place is:--

(a) of a scandalous or defamatory nature, or

(b) likely to excite disaffection against or . bring into hatred or contempt us or Our Government or His Majesty the King Emperor of India or the Government established by Law in British India, or the Ruler of an Indian State or

(c) likely to bring into hatred or contempt any member of the Ruling Family of Travancore or

(d) likely to deprave and corrupt persons present at the performance, Our Government may by order, prohibit the performance.

(2) A District Magistrate, when specially empowered in this behalf by Our Government, may exercise within his District the powers conferred under Sub-section (1):

Provided that Our Government may at any time modify, suspend or cancel any such order. Explanation; Any building or enclosure to which the public are admitted to witness a performance on payment of money shall be deemed a public place within the meaning of this section".

It is agreed that the officer concerned had been empowered as contemplated by Sub-section (2) of Section 2 of the Travancore Dramatic Performance Act, 1115.

3. The learned Government Pleader admits that neither before the issue of Ext. A nor at any time thereafter has the petitioner been given an opportunity to state his case. In view of this I must hold that a very salutary canon of natural justice has been violated and that Ext. A should be quashed. Order accordingly.

4. In the light of what is stated above the question as to whether Section 2 of the Travancore Dramatic Performance Act 1115, is ultra vires of Article 19 of the Constitution does not arise for consideration and is not considered in this judgment.

5. Section 9(1) of the Travancore Dramatic Performance Act, 1115, Provides:--

"Our Government may by Notification Published in Our Government Gazette order that no dramatic performance shall take place in any place of public entertainment, except under it license to be granted by Our Government or such, officer as it may empower in this behalf."

The learned Government Pleader is unable to - produce any notification as contemplated by the sub-section and I am assuming that no such notification has been issued by the Government.