



W.P(MD)No.21756 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P(MD)No.21756 of 2022
and
W.M.P(MD)No.15922 of 2022**

B.Ramkumar Adityan

... Petitioner

vs.

1. District Collector,
Thoothukudi District,
Thoothukudi-628 101,
Thoothukudi District.

2. Superintendent of Police,
Thoothukudi District Police,
Thoothukudi-628 101,
Thoothukudi District.

3. Superintendent of Police,
Tirunelveli District Police,
Tirunelveli-627 011,
Tirunelveli District.

4. The Inspector of Police,
Kulasekarapattinam Police Station,
Kulasekarapattinam-628 206,
Thoothukudi District.

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5. Executive Officer,
Hindu Religious and Charitable Endowment Department,
Arultharum Mutharamman Thirukoil,
Kulasekaranpatinam-628 206,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second and third respondents to obtain a declaration from the organisers of all Dasara Groups and Sound Hire Service Providers not to sing and play any non Devotional Songs and Kuthu Pattu during Dasara festival in connection to the Arultharum Mutharamman Thirukovil, Kulasekarapattinam, Thoothukudi District, in order to stop Vulgar and Obscene Dance performances in the name of Dasara Groups and to protect the Traditional Culture, Traditional Viradham System and Religious sentiments of lakhs of Devotees of Arultharum Mutharamman and consequently, direct the second and third respondents to take very strict action under the provisions of the Indian Penal Code against the organisers of Dasara Groups, Sound Hire Service Providers, Members of Dasara Groups and paid dance performers those who violate.

For Petitioner	: Mr.S.Sankar
For R1	: Mr.P.Thilakkumar, Government Pleader
For R2 to R4	: Mr.T.Senthil Kumar Additional Public Prosecutor
For R5	: Mr.M.Muthugeethayan



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ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The present writ petition has been filed for issuance of a Writ of Mandamus, directing the second and third respondents to obtain a declaration from the organisers of all Dasara Groups and Sound Hire Service Providers not to sing and play any non Devotional Songs and Kuthu Pattu during Dasara festival in connection to the festival of Arultharum Mutharamman Thirukovil, Kulasekarapattinam, Thoothukudi District, in order to stop vulgar and obscene dance performances in the name of Dasara Groups and to protect the Traditional Culture, Traditional Viradham System and Religious sentiments of lakhs of Devotees of Arultharum Mutharamman and consequently, direct the second and third respondents to take very strict action under the provisions of the Indian Penal Code against the organisers of Dasara Groups, Sound Hire Service Providers, Members of Dasara Groups and paid dance performers those who violate.

2. The learned counsel for the petitioner submitted that Arultharum Mutharamman Thirukovil located at Kulasekarapattinam which is

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a Coastal village in the Tiruchendur Taluk in Thoothukudi District, comes under the control of the Tamil Nadu Hindu Religious Endowment Department. The Dasara festival is the most auspicious celebration in the said temple. It is a 12 days celebration as a big festival in the month of September or October every year, second to that of Mysore. Goddess Arultharum Mutharamman bejeweled in grandeur is taken in procession on these days in different disguise. Following the tradition, devotees vow to beg for alms, in various celestial forms. Every year, more than 15 Lakhs devotees gather in the said temple on the tenth day after the new moon day in the Tamil month of Purattasi. It is the festival of communal harmony surpassing the barriers of caste and social status. With such festivity and gaiety all around "Soorasamharam"- slaying of Mahishasooran by Sakthi takes place.

3. The learned counsel for the petitioner further submitted that the main attraction of Dasara in villages like, Thandavankadu, Gnaniyarkudierruppu and Theriyoor, they made settings in which moving idols are so attractive to watch and each of these idols depicts the mythological stories of Hindu Mythology. Devotees belong to the same village or same street form a group wearing different costumes and roam in

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and around Tirunelveli, Thoothukudi and Kanyakumari District and collect offerings from the public. Initially, these groups performed folk music and dance. Later, some of these groups started to hire sub actors and actress from Cine Industry for payment to perform dances in street, which mobilized more crowds. Now it becomes a fashion, lot of Dasara groups started to hire TV serial actors and actress and sub actors and actress from Tamil and Hindi Cinema Industries. These hired dancers do not observe any Viradham, mingle with Dasara Groups and are performing dances for Cinema Songs especially, Kuthu Songs in streets and their dance is obscene and vulgar which affects religious beliefs and against age old Traditional Viradham System and Culture of the Arultharum Mutharamman Thirukovil, located in Kulasekarapattinam. The fame of Dasara festival is shadowed by the performance of the obscene and vulgar dances.

4. The learned counsel for the petitioner also submitted that this Court in a public interest litigation in W.P(MD)No.16077 to 2017 has also directed the authorities to ban dance performance of paid dancers in Dasara groups. Further, the petitioner also filed W.P(MD)No.18348 of 2018, for directing the respondents to ban obscene and vulgar dance and wearing communal identity costumes in Dasara festival of Kulasekaranpatinam and

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WEB COPY this Court had directed the authorities to ensure that the abovesaid order passed by the Division Bench is strictly complied with in letter and spirit. Thus, the learned counsel would pray for allowing the writ petition.

5. The learned Additional Public Prosecutor appearing for the second and fourth respondents submitted that pursuant to the order passed by this Court in W.P(MD)No.13517 of 2017 dated 25.07.2018, regarding the conduct of cultural programmes, the Director General of Police, Chennai, has issued a circular memorandum in Rc.No.159539/Crime.4(3)/2018, dated 31.10.2018, to all the Commissioners of Police in Cities and all the Superintendent of Police in Districts, instructing them to ensure that the directions issued by this Court in the said writ petition are implemented without any deviation. Further, the Inspectors/Station House Officers were directed to get an undertaking from the petitioners/organizers at the time of granting permission to the cultural dance programmes and also to get an assurance from the organisers that there will not be any obscenity or vulgarity in the cultural programme and there will not be any disturbance to the public peace and tranquility and if any violation is noticed, the police authorities were directed to take appropriate criminal action/stringent action against the concerned persons in accordance with law without any delay.

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6. The learned Additional Public Prosecutor further submitted that thereafter in 2019, referring to various orders issued by this Court with regard to grant of permission to hold various events, such as, Aadal Padal programme, sports event, procession/meeting etc., with stipulated conditions, the Director General of Police, Chennai, has issued another Circular Memorandum in Rc.007301/Genl I (1)/2019, dated 09.04.2019, whereby, consolidated instructions with regard to the procedures to be followed while granting permission to conduct cultural events, sports events, procession/meeting etc, have been issued. The said circular memorandum has been addressed to all the Commissioners of Police and Superintendent of Police, instructing them to sensitize the Station House Officers under their control in this regard and communicate these instructions with copies marked to all the Inspectors Generals of Police in Zones, all the Deputy Inspectors Generals of Police in Ranges and Legal Advisor to DGP/Legal Advisor(S) to DGP, to follow the instructions while granting permission for such events. Thus, the learned Additional Public Prosecutor submitted that the directions contained in the Circular Memorandum in Rc.007301/Genl I (1)/2019 dated 09.04.2019, and the earlier order passed by the Division Bench of this Court in W.P(MD)No.16077 of 2017 dated 31.08.2017 in

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WEB COPY respect of the very same Dasara festival at Kulasekaranpatinam, will be followed in letter and spirit.

7. We have heard the learned counsel appearing for the parties and perused the materials available on record.

8. The petitioner has filed the photographs of Dasara festival from pages 22 to 37 of the typedset of papers. While photographs from page Nos.22 to 27 relating to Dasara celebration in other places in India show traditional culture and customs, photographs from pages 28 to 37 relating to devotees who are observing viradham and watching dances at Kulasekaranpatinam Dasara celebration, conspicuously show that such dances are performed by paid dancers exhibiting obscene and vulgar postures making mockery of the traditional culture and customs to be followed in Dasara festival and denigrating the Hindu religious sentiments. In the affidavit filed in support of the writ petition, the petitioner has clearly narrated about the performance of paid dancers during Dasara festival at Kulasekaranpatinam celebrated for the years 2017 and 2018 and he has also cited the lists of Kuthu songs for which the paid dancers are exhibiting obscene dance with vulgar words. Portrayal of women in an indecent

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WEB COPY fashion itself is an offence under the provisions of the Indecent Representation of Women (Prohibition) Act, 1981.

9. Even the petitioner has filed W.P(MD)No.16077 of 2017, seeking the very same relief for the Dasara festival of the year 2017 and a Division Bench of this Court has passed the following order:-

"The petitioner seeks a direction for banning dance performance of paid dancers like bar dance girls, Tv and Cinema Actors and others during the conduct of Dhasara festival of Arultharum Mutharamman Thirukovil, located in Kulasekarapattinam, Thoothukudi District. He has given a representation in this regard to the authorities. Since the same was not considered, this Writ Petition has been instituted.

2.Heard the learned counsel for the parties.

3.It is submitted that the Dussera festival for the said temple attracts thousands of devotees from all over India. The devotees dress themselves in a variety of costumes. Music and dance programmes are also conducted. This Court cannot restrain anybody from participating in any such functions. Tv and Cinema actors and actresses are also entitled to take part in such functions. This Court can take note of the fact that invariably the said programmes are full of cinema motifs and themes. But, that is a part of popular culture and there cannot be any intervention in such matters. But, vulgarity and



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WEB COPY obscenity cannot be displayed in the name of arts. Therefore, this writ petition is disposed of with a direction to the authorities to ensure that there is no display of vulgarity or obscenity in connection with the temple festival of Arultharum Mutharamman Thirukovil, located in Kulasekarapattinam, Thoothukudi District.

4.This Writ Petition is disposed of accordingly. No costs."

10. Again in 2018, the petitioner has moved this Court in W.P(MD)No.18348 of 2018, seeking the very same relief for the Dasara festival of the year 2018 and the learned Single Judge of this Court by order dated 23.08.2018, following the abovesaid Division Bench judgment, has disposed of the said writ petition, directing the third and fourth respondents therein, to strictly comply with the abovesaid directives of the Division Bench in letter and spirit.

11. Now the petitioner has filed this writ petition as a public interest litigation, directing the second and third respondents to obtain a declaration from the organisers of all Dasara Groups in order to stop vulgar and obscene dance performances in the name of Dasara Groups and to protect the Traditional Culture, Traditional Viradham System and Religious sentiments of lakhs of Devotees of Arultharum Mutharamman.

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WEB COPY12. The Circular Memorandum in Rc.007301/Genl I (1)/2019 dated 09.04.2019 issued by the Director General of Police, Tamil Nadu, referring to the various orders issued by this Court on the issue, shows that consolidated instructions with regard to the procedures to be followed while granting permission to conduct cultural events, sports events, procession/meeting etc, have been given. The said circular memorandum has been addressed to all the Commissioners of Police and Superintendent of Police, instructing them to sensitize the Station House Officers under their control in this regard and communicate these instructions with copies marked to all the Inspectors Generals of Police in Zones, all the Deputy Inspectors Generals of Police in Ranges and Legal Advisor to DGP/Legal Advisor(S) to DGP.

13. We are of the view that the petitioner has produced materials to substantiate his plea of exhibition of obscene and vulgar dance during the earlier Dasara festival for the years 2017 and 2018. Thus, the apprehension of the petitioner to protect the traditional culture and customs of Dasara festival from the vulgar and obscene dance performance, is well founded. However, now it is the submission of the learned Additional Public Prosecutor that the Circular Memorandum in Rc.007301/Genl I (1)/2019

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WEB COPY dated 09.04.2019 and the directives of the Division Bench in W.P(MD)No. 16077 of 2017, dated 31.08.2017, will be followed by the police authorities in letter and spirit, during the forthcoming Dasara festival.

14. In view of the above, recording the abovesaid submission of the learned Additional Public Prosecutor, we dispose of this Writ Petition, directing the respondents to ensure that Circular Memorandum in Rc. 007301/Genl I (1)/2019 dated 09.04.2019 and the directives of the Division Bench in W.P(MD)No.16077 of 2017 dated 31.08.2017 are followed in letter and spirit in the forthcoming Dasara festival of Arultharum Mutharamman Thirukovil at Kulasekarapattinam, Thoothukudi District. We direct that the obscene and vulgar dance performance should be specifically prohibited by the Police authorities in the forthcoming festival and if any one violates the same, appropriate action shall be taken against them in line with the abovesaid Circular Memorandum. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D.,J.] & [J.S.N.P.,J.]
14.09.2022

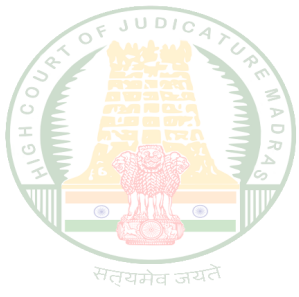
Index : Yes / No

Internet : Yes

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Issue order copy today itself

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To

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R.MAHADEVAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

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ORDER MADE IN
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DATED : 14.09.2022