



Cont.P.No.2111 of 2022 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.11.2022

CORAM

THE HONOURABLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

Cont.P.Nos.2111, 2115, 2238, 2239 to 2243, 2249, 2272 to 2275,
2322 to 2350, 2362 to 2369 of 2022

and

Sub Application Nos.522, 523, 567 to 573, 579, 580, 581, 582, 589, 590 to
617, 632 to 639 of 2022

Cont.P.No.2111 of 2022:-

R.Karthikeyan

... Petitioner

Vs.

1. K.Phanindra Reddy, I.A.S.,
Secretary, Home Department,
The Government of Tamilnadu,
Fort. St. George,
Chennai – 600 009.
2. C.Sylendra Babu, I.P.S.,
Director General of Police,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
3. Pakerla Cephas Kalyan, I.P.S.,
Superintendent of Police,
Tiruvallur District,
Tiruvallur – 602 001.



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4. Padmashree Latha,
Inspector of Police,
Tiruvallur Town Police Station,
Tiruvallur – 602 001.

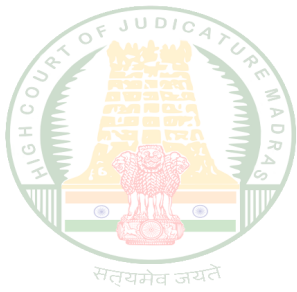
... Respondents

Prayer:- Contempt petition has been filed under Section 11 of the Contempt of Courts Act, 1971, praying to issue notice to the respondents and punish them for having committed contempt of the order dated 22.09.2022 of this Court passed in W.P.No.25213 of 2022.

In all Contempt Petitions

For Petitioners : Mr.S.Prabhakaran, Senior Counsel &
Mr.N.L.Rajah, Senior Counsel &
Mr.G.Raja Gopal, Senior Counsel
For Mr.B.Rabu Manohar
Mr.G.Karthikeyan
Mr. Subbu Ranga Bharathi
Mr. S.Diwakar
Mr. R.Subramanian
Mr. UM.Shankar
Mr. B.Ram Prabu
Mr. J.Vasu
Mr. S.Nelson

For Respondents
For R1 : Mr.N.R.Elango, Senior Counsel
Assisted by
Mr.E.Raj Thilak
Additional Public Prosecutor
Mr.A.Gopinath,
Government Advocate (Crl.Side)



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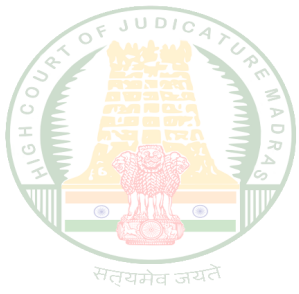
For R2 to R4 : Mr.Hasan Mohammed Jinnah
State Public prosecutor
Assisted by Mr.A.Gokula Krishnan
Additional Public Prosecutor
Mr.S.Vinoth kumar,
Government Advocate (Crl.Side)

COMMON ORDER

These Contempt Petitions have been filed to punish the respondents for the wilful disobedience of the common order dated 22.09.2022, passed by this Court in W.P.No.24540 of 2022 etc., batch, thereby directing the respondents to grant permission to the respective petitioners to conduct procession and to conduct public meetings on 02.10.2022 at various places of Tamil Nadu subject to the conditions, on or before 28.09.2022.

2. When the matters are taken up for hearing on 30.09.2022, this Court passed an order as follows :-

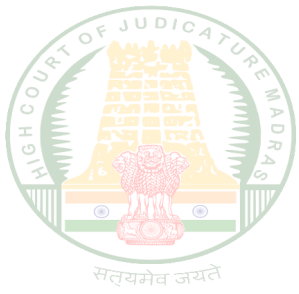
“2. The order passed by this Court was duly communicated to the respondents. However, the respondents rejected the representation of the petitioners therein by an order dated 28.09.2022 seeking permission to conduct procession and to conduct public meetings to be held on 02.10.2022.



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3. *Mr.S.Prabakaran, the learned Senior Counsel appearing for the petitioner submitted that though this Court directed the respondents to grant permission with certain conditions, without obeying the order passed by this Court, the respondents rejected the representations for the reason that subsequent to the order passed by this Court, there is a ban on Popular Front of India and other connected organisations and it would create law and order problem. Whatever the ban, it is nothing to do with the order passed by this Court. The State is duty to bound to maintain the law and order issue, if any. Therefore, it is a clear willful disobedience of the order passed by this Court and they are liable to be punished for contempt of this Court. Further, in view of the above, the order of rejection cannot be sustained and it is liable to be set aside. He further submitted that in fact writ petition in W.P.No.24700 of 2022 was filed by one of the petitioner challenging the rejection order. This court set aside the rejection order and directed the respondents to grant permission to conduct procession and public meeting to be held on 02.10.2022. However, the respondents wantonly and willfully again rejected the request and it is nothing but clear violation of the order passed by this Court. Therefore, the petitioner filed sub application seeking direction to permit the writ petitioners to conduct procession public meeting to be held on 02.10.2022. Mr.G.Rajagopal,*



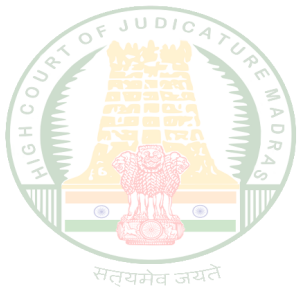
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learned Senior Counsel and Mr.N.L.Rajah, learned Senior Counsel also supported the contentions raised by Mr.S.Prabakaran, learned Senior Counsel and seeking permission to conduct procession and public meeting to be held on 02.10.2022.

4. Per contra, Mr.N.R.Elango, the learned Senior Counsel appearing for the first respondent submitted that due to the present law and order situation, the respondents rejected the representations seeking permission to conduct procession and to conduct public meetings on 02.10.2022. It is true that this Court directed the respondents to grant permission to the petitioners. After the order passed by this Court, the Union Government banned the organisation called 'Popular Front of India' and other similar various organisations for the period of five years on 28.09.2022. Due to which, there are threats from various sources to the leaders of petitioners organisations. Under these circumstances, the Government has to assess, in the context of the prevailing conditions, the impact of the steps taken to enforce law and order. It is the executive which has to take a policy decision as regards the steps to be taken in a given situation. While executing the order passed by this Court, the respondents cannot be oblivious of the possibility that while solving one problem of law and order, others more acute than the one sought to be solved may arise. He also relied



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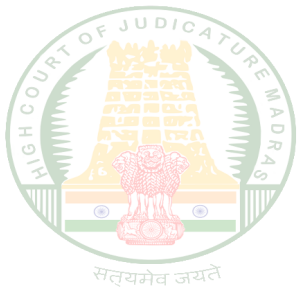
upon the judgment of the Hon'ble Supreme Court of India in the case of **Karnataka Live Band Restaurants Association Vs. State of Karnataka and Others** reported in (2018) 4 SCC 372, wherein it is held as follows:

“38. There are two Latin legal maxims, which need to be kept in mind while deciding the questions arising in this appeal. One is “*Salus Populi Supremo Lex*” which means the safety of the people is the supreme law and the other is “*Salus reipublicae supremo lex*” which means safety of the State is the supreme law.

39. In our considered view, it is the prime duty, rather statutory duty, of the Police personal/administration of every State to maintain and give precedence to the safety and the morality of the people and the State....”

Therefore, to conduct procession and to conduct public meetings on 02.10.2022 is not safe to all the general public and also the leaders of various political parties. Hence, the respondents rejected the request made by the petitioners for so many reasons by the order dated 28.09.2022.

4.1 Mr.Hasan Mohamed Jinnah, the learned State Public Prosecutor also submitted that due to the ban order dated 28.09.2022, so far the respondents deployed 59,144 police personnels from the cadre of Deputy Superintendent of Police for the life and limb of various political leaders of the petitioner organisations and its allied political parties. If the



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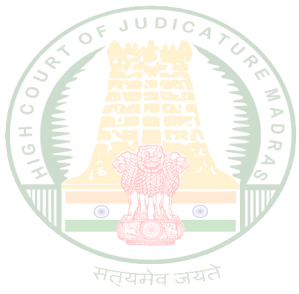
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petitioners are permitted to conduct procession on 02.10.2022, it will be very risk to their life and limb. In fact, the respondents have not only rejected the requests made by the petitioners and also other parties request to conduct procession for social unity and harmony on 02.10.2022.

5. Hence, the respondents justified the reasons for rejecting the request made by the petitioners. Therefore, it is not possible for the respondents to grant permission for the procession to be held on 02.10.2022. However, this Court suggested for any other date except Gandhi Jayanthi i.e. 02.10.2022 to conduct procession and to conduct public meeting.

6. The learned Senior Counsels appearing for the petitioners suggested four dates i.e. 09.10.2022, 16.10.2022, 06.11.2022 and 13.11.2022 and the learned Senior Counsel appearing for the first respondent submitted that except Gandhi Jayanthi on 02.10.2022, they will consider the same representations of the respective petitioners seeking permission to conduct procession and to conduct public meetings on any other date.

7. Considering the above submissions made on either side, this Court fix the date to conduct procession and to conduct public meetings on 06.11.2022. Till then, the petitioners are directed not to precipitate the issue. However, it is for the State to maintain law and order problem. It is



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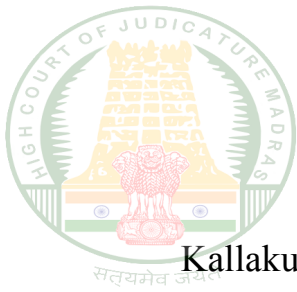
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made clear that the respondents shall permit the petitioners on their earlier representations to conduct procession and to conduct public meetings on 06.11.2022.

8. Registry is directed to list the matter along with all the connected contempt petitions numbered subsequently on 31.10.2022.”

3. On 31.10.2022, the learned Senior Counsel appearing for the petitioners produced the order passed by the second respondent viz., the Director General of Police, dated 29.10.2022, thereby directing all the Commissioner of Police/Superintendent of Police, to pass order on the applications made by the respective petitioners in accordance with the order passed by this Court dated 22.09.2022 in W.P.No.24540 of 2022 etc., batch. Accordingly all the applications submitted by the petitioners are under consideration of the respective Commissioner of Police/Superintendent of Police and they are about to pass orders within a day or two. Therefore, the matters are again adjourned to 02.11.2022.

4. On 02.11.2022, the learned Senior Counsel appearing for the petitioners submitted that out of 50 places, in three places i.e., Cuddalore,



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Kallakurichi and Perambalur, the respective petitioners were granted permission to conduct procession and public meeting on 06.11.2022. Insofar as 23 places are concerned, respective petitioners are permitted to conduct procession/public meeting in an indoor place. Insofar as 24 places are concerned, respective authorities found that there will be a law and order issue and rejected the requests in view of the intelligence report received from the authorities concerned. This Court wants to peruse the intelligence report produced by the learned State Public Prosecutor. Hence, all the contempt petitions are adjourned to today ie., on 04.11.2022.

5. The learned State Public Prosecutor appearing for the respondents/Police produced the intelligence report in a sealed cover. This Court perused the intelligence report and on a perusal of the said report revealed that the concerned Commissioner of Police/Superintendent of police referred number of FIRs registered during the year 2008 to 2020 in the places, where the petitioners sought for permission to conduct procession and public meeting to be held on 06.11.2022 and stated that there will be a law and order issue, if permission granted to the respective petitioners to conduct procession and public meeting. All the FIRs are very old and the reasons stated in the report



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cannot be accepted, since everywhere there are accused and against them there are FIRs. Therefore, mere pendency of the FIRs against the particular organization cannot be a ground to reject the request made by the petitioners.

6. However, this Court finds that the following places are very sensitive area and already there was recent incident with related to the particular organization:-

(i) Coimbatore (ii) Pollachi (iii) Nagercoil (iv) Palladam (v) Mettupalayam (vi) Arumanai.

Therefore it is not the right time to permit the respective petitioners to conduct procession and public meeting on 06.11.2022 for the above mentioned places. Therefore, the concerned Commissioner of Police/Superintendent of Police rightly rejected their request and hence, no contempt is made out insofar as the above places. **Accordingly, the contempt petitions in Cont.P.Nos.2240, 2243, 2326, 2331, 2332 & 2348 of 2022 are closed.** However, the petitioners are at liberty to make fresh representation to conduct procession and public meeting after the period of two months from today. On receipt of the same, the authorities concerned are directed to consider the same and pass orders on merits and in accordance with law. In view of the order passed by the respective

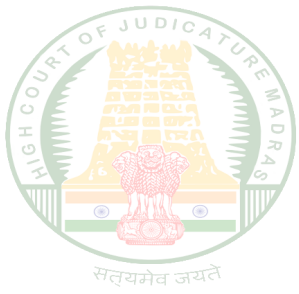


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Commissioner of Police/Superintendent of Police thereby permitting the concerned petitioners to conduct procession and public meeting on 06.11.2022, **the Contempt petitions in Cont.P.Nos.2323, 2328 & 2369 of 2022 are closed.**

7. Insofar as the other Contempt Petitions are concerned, this Court finds no reason to reject the request made by the respective petitioner. In this regard, it is relevant to rely upon the judgment reported in **(2012) 5 SCC 1** in the case of ***Ramlila Maidan Incident Vs. Home Secretary, Union of India and ors.***, in which the Hon'ble Supreme Court of India held as follows :-

“200. Freedom of speech, right to assemble and demonstrate by holding dharnas and peaceful agitations are the basic features of a democratic system. The people of a democratic country like ours have a right to raise their voice against the decisions and actions of the Government or even to express their resentment over the actions of the Government on any subject of social or national importance. The Government has to respect and, in fact, encourage exercise of such rights. It is the abundant duty of the State to aid the exercise of the right to freedom of speech as understood in its comprehensive sense and not to throttle or frustrate exercise of such rights by exercising its executive or legislative powers and passing orders or



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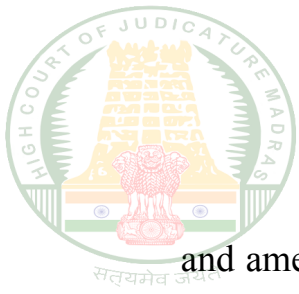
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taking action in that direction in the name of reasonable restrictions. The preventive steps should be founded on actual and prominent threat endangering public order and tranquility, as it may disturb the social order. This delegate power vested in the State has to be exercised with great caution and free from arbitrariness. It must serve the ends of the constitutional rights rather than to subvert them.

.....

211. Furthermore, the constitutional mandate, the statutory provisions and the regulations made thereunder, in exercise of power of delegated legislation, cast a dual duty upon the State. It must ensure public order and public tranquility with due regard to social order, on the one hand, while on the other, it must exercise the authority vested in it to facilitate the exercise of fundamental freedoms available to the citizens of India. A right can be regulated for the purposes stated in that Article itself.”

8. Further the Hon'ble Supreme Court of India in the judgment reported in (1973) 1 SCC 277 in the case of **Himat Lal K. Shah Vs. Commissioner of Police, Ahmedabad and anr.**, held that even in pre-independence days the public meetings have been held in open spaces and public streets and the people have come to regard it as a part of their privileges

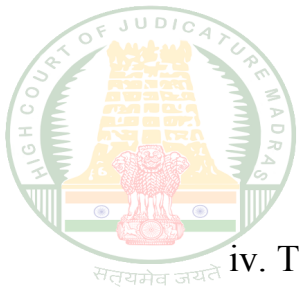


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and amenities. The streets and public parks existed primarily for other purposes and the social interest promoted by untrammelled exercise of freedom of utterance and assembly in public streets must yield to the social interest which the prohibition and regulation of speech are designed to protect.

9. Therefore, this Court is inclined to grant permission to conduct procession and public meeting on 06.11.2022 on the following conditions :-

- i. The procession and public meetings should be conducted in a compounded premises such as Ground or Stadium. It is made clear that while proceeding to conduct procession and public meeting, the participants shall go by their respective vehicles without causing any hindrance to the general public and traffic.
- ii. During the program, nobody shall either sing songs or speak ill on any individuals, any caste, religion, etc.,
- iii. Those who participate in the program shall not for any reason talk or express anything in favour of organizations banned by Government of India. They should also not indulge in any act disturbing the sovereignty and integrity of our country.



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- iv. The program should be conducted without causing any hindrance to public or traffic.
- v. The participants shall not bring any stick, lathi or weapon that may cause injury to any one.
- vi. The organizer(s) shall make adequate arrangements for drinking water and proper First Aid/Ambulance/Mobile Toilets/CCTV Cameras/Fire Fighting equipments etc., in consultation with the Police/Civic/Local Bodies as directed by the police.
- vii. The organizer(s) shall keep sufficient volunteers to help the police for regulation of traffic and the participants.
- viii. Only box type speakers should be used and output of the speakers should not exceed 15 watts-ad within a radius of 30 meters only. Cone Speakers should not be used at any cost.
- ix. In the procession, the processionists shall not by any manner offend the sentiments of any religious, linguistics, cultural and other groups.
- x. An undertaking to reimburse the cost for any damage that may occur enroute to any public/private property and an undertaking to bear the compensation/replacement costs as well, if are to be awarded to any other institution/person, who may apply for the same.



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xi. If there is violation of any one of the conditions imposed, the concerned police officer is at liberty to take necessary action, as per law.

9. With the above directions, the Contempt Petitions in Cont.P. Nos.2111, 2115, 2238, 2239, 2249, 2272 to 2275, 2322 to 2325, 2327 to 2330, 2333 to 2347, 2349, 2350, 2362 to 2369 of 2022 are disposed of. Consequently, connected Sub applications are closed.

04.11.2022

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

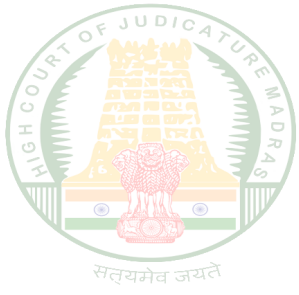
Note : Issue order copy today ie., 04.11.2022

rts

To

1. K.Phanindra Reddy, I.A.S.,
Secretary, Home Department,
The Government of Tamilnadu,
Fort. St. George,
Chennai – 600 009.

2. C.Sylendra Babu, I.P.S.,
Director General of Police,
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G.K.ILANTHIRAIYAN, J.

rts

3. Pakerla Cephas Kalyan, I.P.S.,
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Tiruvallur District,
Tiruvallur – 602 001.

4. Padmashree Latha,
Inspector of Police,
Tiruvallur Town Police Station,
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5. The Public Prosecutor
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