

Jamal Mohamed Vs The Superintendent of Police

Court: Madras High Court (Madurai Bench)

Date of Decision: Nov. 17, 2014

Acts Referred: Police Act, 1861 " Section 30(2)

Hon'ble Judges: M. Venugopal, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M. Venugopal, J.

Heard both sides.

2. According to the Petitioner, he is the Town President of Tamil Nadu Muslim Munnetra Kazhagam. He has filed the present Writ of

Certiorarified Mandamus praying for passing of an order by this Court in calling for the records pertaining to the order passed by the Respondent

No. 3, dated 12.11.2014 and to quash the same as unlawful one. Further, he sought for passing of an order by this Court in directing the

respondents 1 and 2 to grant permission to the Petitioner to organize the public demonstration at Dindigul Begumbur Signal on any date within the

time frame to be determined by this Court.

3. The main grievance of the Petitioner is that the Third Respondent/The Sub-Inspector of Police, Town South Police Station, Dindigul has refused

permission through his memo, dated 12.11.2014 to the Petitioner to conduct a stage demonstration on 13.11.2014 at about 6.30 p.m. at Dindigul

Begumbur signal. In this regard, the learned counsel for the Petitioner submits that the Petitioner is entitled to stage the demonstration in a

democratic way. Further, it is the stand of the Petitioner that on 9.11.2014 at about 9.45 p.m. One Ramachanthiran, who is the Deputy

Superintendent of Police, Dindigul Town Police station arrived in front of their office and scolded their office-bearers etc in filthy language through

loud speakers fixed at the Police vehicle and threatened them to close the office and due to the act of the said Ramachanthiran, their organization

had scheduled a demonstration against the atrocities of the Police Officials on 13.11.2014 at 6.30 p.m. Which was refused by the Third

Respondent/The Sub-Inspector of Police, Town south Police Station, Dindigul.

4. Per contra, it is the submission of the learned Additional Government Pleader that the order under Section 30(2) of the Police Act is in force

from 6.11.2014 to 20.11.2014 for a period of 15 days and as such, the Third Respondent had passed the impugned order, dated 12.11.2014

which does not suffer from any infirmity in the eye of law. Also, it is represented on behalf of the respondents that the Petitioner gave

representation, dated 11.11.2014 before the Third Respondent for staging a demonstration on 13.11.2014 at about 6.30 p.m, at Dindigul

Begumbur Signal and as per Section 30(2) of the Police Act, the representation/application ought to be given by any individual seeking permission

in the subject-matter in issue three days before the staging of demonstration and in the instant case, that was not adhered to by the Petitioner.

5. It is to be noted that a person/individual has the right to hold a meeting in the matter of public importance. As a matter of fact the ingredients of

Section 30(2) of the Police Act, 1861 merely provides for only a regulatory power and not a blanket power to stifle any democratic dissent of the

citizen by the police. At this stage this Court optly points out a judgement of this Court in C.J.Rajan v. Deputy Superintendent of Police reported in

2008 (3) MLJ 926, wherein and whereunder it is held as follows:

It is too late for the respondents to refuse permission to hold a meeting on a matter of public importance. With respect to the respondents"

reliance upon Section 30(2) of the Police Act, 1861, it can only be said that it enables the respondents to direct the control and conduct of all

assemblies and processions on public road or in the public streets or thoroughfares and to prescribe the Rules by which and the times by which the

processions may pass. The proposal made on behalf of the petitioner is laudable and it shows their accommodating spirit in relocating the venue of

the public meeting to another place after taking note of the objections raised by the respondents. The respondents can have no objection for the

present venue, date and time chosen by the petitioner Association for conducting a public meeting. Since the respondents are present in Court and

they were also informed about the change of the venue made by the petitioner, it is hereby directed the petitioner need not send any fresh

application and the request recorded in this order can be taken as adequate requisition made by the petitioner.

6. Added further, in a decision in M.N.Pasarai v. Inspector General of Police and Commissioner of Police reported in (2009) 1 MLJ 695,

whereby and whereunder, it is held as follows:

It is not a case where the petitioner association is seeking for police protection. The further submission that there is likelihood of speeches made in

the said meeting, inciting communal hatred or leading to seditious activities are matters to be decided after the meeting takes place, over which

sufficient measures are provided under the laws of the country. Writ Petition allowed. petitioner permitted to hold meeting.

7. Also, the learned counsel for the petitioner fairly submits that the petitioner will be satisfied, if permission to hold demonstration on 20.11.2014

for two hours is at least granted by this Court and in this regard, the Court may determine the time for staging the demonstration as the case may

be.

8. On a careful consideration of respective contentions and also this Court taking note of the fact that the Petitioner in the Writ Petition had averred

that he sought permission to conduct a demonstration against the atrocities of the Police Officials on 13.11.2014 at 6.30 p.m., is of the considered

view that the impugned order dated 12.11.2014 passed by the Third Respondent in refusing permission to the Petitioner to conduct the

demonstration is an invalid and illegal one in the eye of law because of the simple reason that a citizen has a right to hold a meeting on a matter of

public importance and furthermore, Section 30(2) of the Police Act, 1861 provides only for a regulatory power and not a blanket power to hinder

or prevent any democratic dissent to be shown by any citizen/citizens of the Country. Viewed in that perspective, this Court interfere with the said

impugned order dated 12.11.2014 passed by the third respondent and quashes the same. Consequently, the writ petition succeeds.

9. In the result, the writ petition is allowed. No costs. Consequently, the impugned order dated 12.11.2014 passed by the third respondent is

hereby quashed. Since this Court has quashed the impugned order of the third respondent dated 12.11.2014 as a logical corollary, this Court

grants permission to the petitioner to conduct demonstration on 20.11.2014 between 10.00 a.m. to 12.00 p.m. at Dindigul Begumbur signal and in

this regard, the petitioner is directed to submit necessary application seeking licence/ permission from the third respondent and the third respondent

shall grant the same on receipt of the application / petition of the petitioner. Furthermore, the petitioner is to pay a requisite charges, if any, to the

concerned authority, if Law requires him to pay the same. The Petitioner will stage demonstration in question in a peaceful and serene atmosphere

and in any event, the petitioner shall not exceed the time limit granted by this Court in regard to the staging of demonstration. If the Petitioner

exceeds the time limit granted by this Court, then the respondents 1 to 3 are directed to step in and to proceed further in the manner known to law

and in accordance with law. Consequently, connected Miscellaneous Petition is closed.