

W.P.Crl.(MD)No.448 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2025

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CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.Crl.(MD)No.448 of 2025

J.Eswaran
State Co-ordinator,
Naam Tamilzar Katchi,
Achankulam,
Thirupuvanam,
Sivagangai District.

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep by the Superintendent of Police,
Sivagangai District,
Sivagangai.

2. The Deputy Superintendent Of Police,
Manamadurai Sub Division,
Sivagangai.

3. The Inspector of Police,
Thirupuvanam Police Station,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order dated 06.07.2025 in Na.Ka.No.39/Camp/DSP/Mana/2025 passed by the 2nd respondent, quash



W.P.Crl.(MD)No.448 of 2025

the same and consequently to direct the respondents to grant permission to the petitioner to conduct the demonstration near “Thirppunam Santhai Thidal” on 08.07.2025 between 2 pm and 7 pm.

For Petitioner : Mr.M.Dinesh Hari Sudarsan,
For Respondents : Mr.E.Antony Sahaya Prabhakar
Additional Public Prosecutor

ORDER

This writ petition has been filed by the state co-ordinator of a political party, as against the order passed by the 2nd respondent in Na.Ka.No.39/Camp/Ka.Thu.Ka/Mana/2025, dated 06.07.2025 and for a consequential direction to the respondents to grant permission to the petitioner political party to conduct protest near Thiruppuvanam santhai Thidal on 08.07.2025 between 2pm and 7 pm.

2.By the impugned order, the 2nd respondent has rejected the request of this petitioner for conducting protest on the issue of death of one Ajith Kumar of Sivagangai district. The 2nd respondent has rejected the request of the petitioner on the following grounds:



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W.P.Crl.(MD)No.448 of 2025

“1.Prior Protest Held: The party had already conducted a protest at the same location on 03.07.2025. Repeating the same at short intervals was not advisable.

2.Coinciding Chariot Festival: On 08.07.2025, the temple car (Therottam) festival of Sri Santhanayaki Ambal Sametha Swarnamoortheeswarar Swamy Temple in Melanettur, Kandadevi, Devakottai Taluk is scheduled, attracting a large number of devotees, particularly women and children. Substantial police deployment from the Manamadurai sub-division, including Tiruppuvanam, was required for the peaceful conduct of the festival.

3. Proximity to Sensitive Areas: The proposed protest site is located close to government offices, schools, hospitals, and commercial establishments, raising concerns about traffic congestion, disruption of essential services, and public inconvenience.

4. Weekly Market Day: The requested protest date coincides with the weekly market (Santhai) at Thiruppuvanam, which witnesses significant footfall from nearby villages. Allowing the protest could lead to vehicular chaos, disrupt local commerce, and affect farmers and vendors who depend on this market.



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W.P.Crl.(MD)No.448 of 2025

5. *Limited Capacity of the Site: The Santhai Thidal is situated on the Thiruppuvanam- Sivagangai State Highway And can only accommodate 200–300 persons. It lacks designated parking and crowd management infrastructure. The Petitioner has not indicated how many people or vehicles would assemble at the proposed protest site. A large gathering could pose safety risks, obstruct traffic, and endanger public property.*

6. *Law and Order Concern: Based on the overall situation, the authorities concluded that conducting the protest on the specified date would jeopardize public order, safety, and traffic flow, and could potentially result in disturbances or damage to public property.”*

3.As against the impugned order dated 06.07.2025, this writ petition was moved on 07.07.2025 as urgent lunch motion that the respondent police have granted permission to other political parties for conducting protest on this issue, however, they have discriminated the petitioner political party alone. Considering this submission made on behalf of the petitioner, this Court on 07.07.2025 permitted the petitioner



W.P.Crl.(MD)No.448 of 2025

to move the writ petition as lunch motion and directed the Registry to list this writ petition on 07.07.2025 at 2.30pm. Accordingly this writ petition was listed.

4. When this writ petition was taken up for hearing the learned Additional Public Prosecutor appearing for the respondent police by referring the impugned order pointed out that the very same political party conducted protest on 03.07.2025 at Thiruppuvanam Santhai Thidal and again they intended to conduct another protest on 08.07.2025.

5. The learned counsel for the petitioner in response to the above submission, by referring the averment made in paragraph No.3 of the affidavit submitted that the respondent police have raised objection for the participation of their party leader on 03.07.2025 and therefore, they wanted to conduct another protest on 08.07.2025 along with their party leader. The averment made in paragraph No.3 of the affidavit is extracted as under:

“3... Condemning the said custodial death in a view to conduct demonstration in presence of our party leader Mr.Seeman, I requested the 3rd respondent Police



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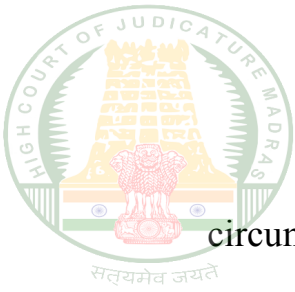


W.P.Crl.(MD)No.448 of 2025

vide my representation dated 30.06.2025, during which the 3rd respondent Police advised us to not bring the party leader Mr.Seeman on that particular day as the situation in the local is not appropriate. Thus we undertook to conduct demonstration in the presence of our party leader on some other day, upon which we were granted permission on 03.07.2025”

6.Since the petitioner made certain allegations as against the respondent police in granting permission for conducting protest on 03.07.2025 by restricting this petitioner political party to conduct the protest without the participation of their leader, this Court directed the respondent police to file their counter affidavit with regard to the averment made in paragraph No.3 of the petitioner's affidavit. The respondent police have filed their counter affidavit today denying the above averment.

7.The learned Additional Public Prosecutor by referring to the request made by this petitioner on 30.06.2025 submits that there is no such reference about the participation of their leader on 03.07.2025 and no such statement has been made on behalf of the petitioner. Under such



W.P.Crl.(MD)No.448 of 2025

circumstances a similar request has been made by one Eswaran, in the capacity as the state organiser on 03.07.2025 requesting for permission to conduct protest headed by their leader on 08.07.2025 on the issue of death of one Ajith Kumar, in the very same place, where they have already conducted the protest on 03.07.2025. The said request has been rejected by the impugned order on the reasons cited above.

8.This Court considered the rival submissions made and perused the materials placed on record.

9.The respondent police have rejected the request of the petitioner for conducting protest on 08.07.2025 mainly on three grounds that already protest was conducted on 03.07.2025 by the petitioner political party; Kanda Devi temple car festival was scheduled to be held on 08.07.2025 and considering the events that took place in the past during the festival, the entire police force would be diverted to the said car festival, there is difficulty for them to provide police protection; and 08.07.2025 is the date of weekly market in the place identified by the petitioner for protest.



W.P.Crl.(MD)No.448 of 2025

10.The petitioner has not conducted any protest on 08.07.2025.

Considering the impugned order, the petitioner has made a request for conducting protest on 09.07.2025, however the same has also been rejected by the respondent police by order dated 08.07.2025 citing the pendency of this writ petition.

11. The impugned order in this petition is a rejection of the request of the petitioner for conducting protest on the issue of death of one Ajith Kumar.

12.The right to freedom of expression and protest is guaranteed under the Constitution of India. However this right conferred under Article 19(1)(a) and (b) of the Constitution is subject to reasonable restrictions under Article 19(2) and (3) of the Constitution.

13.When the petitioner political party is having a right to conduct protest, the right of noise free environment, right to not to be disturbed and right to live in peace and right to move freely are also guaranteed under the Constitution to the general public.



W.P.Crl.(MD)No.448 of 2025

14.The petitioner political party is intending to conduct the protest on account of the death of one Ajith Kumar. This very same political party appears to have conducted protest on 03.07.2025, however, they are intending to conduct another protest on 08.07.2025, on the same cause of action, at the same place that too within a period of five days. The conducting of protest is not meant for fun and such protests cannot be conducted to the whims and fancies of the political parties.

15.The political parties are having certain responsibilities towards general public, who would be disturbed pursuant to their protests. The protests, if any conducted would certainly affect the right of free movement of common public and it would disturb the people in and around the place of protests. The right of protest has been discussed by the Hon'ble Supreme Court and by this Court in the following judgments.

i. In ***Himat Lal K. Shah vs Commissioner Of Police, Ahmedabad & Anr*** reported in ***(1973 AIR 87)*** it has been held as follows:

“70.... The parks are held for public and the public streets are also held for the public. It is doubtless true that the State or local authority can regulate its



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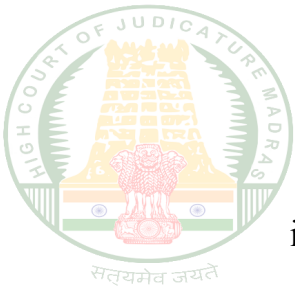
W.P.Crl.(MD)No.448 of 2025

property in order to serve its public purposes. Streets and public parks exist primarily for other purposes and the social interest promoted by untrammelled exercise of freedom of utterance and assembly in public street must yield to social interest which prohibition and regulation of speech are designed to protect.”

ii. In ***Mazdoor Kisan Shakti Sanghatan vs. Union Of India***

reported in ***AIR 2018 SC 3476***, it has been observed as follows:

“61. Undoubtedly, right of people to hold peaceful protests and demonstrations etc. is a fundamental right guaranteed under Articles 19(1)(a) and 19(1)(b) of the Constitution. The question is as to whether disturbances etc. caused by it to the residents, as mentioned in detail by the NGT, is a larger public interest which outweighs the rights of protestors to hold demonstrations at Jantar Mantar Road and, therefore, amounts to reasonable restriction in curbing such demonstrations. Here, we agree with the detailed reasoning given by the NGT that holding of demonstrations in the way it has been happening is causing serious discomfort and harassment to the residents”



iii. In ***Bimal Gurung vs Union Of India*** reported in ***AIR 2018 SC***

1459, it has been noted as follows:

“28.... Demonstrations whether political, religious or social or other demonstrations which create public disturbances or operate as nuisances, or create or manifestly threaten some tangible public or private mischief, are not covered by protection under Article 19(1). A demonstration might take the form of an assembly and even then the intention is to convey to the person or authority to whom the communication is intended the feelings of the group which assembles. From the very nature of things a demonstration may take various forms; “it may be noisy and disorderly”, for instance stone-throwing by a crowd may be cited as an example of a violent and disorderly demonstration and this would not obviously be within Article 19(1)(a) or (b).”

iv. In ***Amit Sahni v. Commissioner of Police & Ors.***, reported in ***(2020)?10?SCC?439***, it has been observed that protests cannot be carried out in such a manner that inconvenience is caused to the public and commuters and the relevant paragraph is extracted as under:



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W.P.Crl.(MD)No.448 of 2025

*“17. However, while appreciating the existence of the right to peaceful protest against a legislation (keeping in mind the words of Pulitzer Prize winner, Walter Lippmann, who said “In a democracy, the opposition is not only tolerated as constitutional, but must be maintained because it is indispensable”), we have to make it unequivocally clear that public ways and public spaces cannot be occupied in such a manner and that too indefinitely. Democracy and dissent go hand in hand, but then the demonstrations expressing dissent have to be in designated places alone. The present case was not even one of protests taking place in an undesignated area, but was a blockage of a public way which caused grave inconvenience to commuters. **We cannot accept the plea of the applicants that an indeterminable number of people can assemble whenever they choose to protest.**”*

v. A Division Bench of this Court in ***The Government Of Tamil Nadu vs P.Ayyakannu*** (W.A. Nos. 2004 & 2006 of 2006) has observed as follows:

“15. The right to protest, no doubt is available to all the citizens in a democratic country like ours. Unfortunately, this right to protest has been continuously misunderstood as a right to inconvenience the general public. The protesters who claim to espouse the cause of



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W.P.Crl.(MD)No.448 of 2025

the public, often forget that their right to protest ends when the other person's right to free movement and the right to not to listen to starts.

.....

*31. As rightly pointed out by the learned Additional Advocate General, the right of the State to regulate protest includes the right to prescribe a particular location for the protest. The right of the State to identify locations for demonstrations, dharnas and protests has been recognized by the Hon'ble Supreme Court as well as this Court. **No person, in our considered opinion, has a right to contend that he would protest only at a particular place and not anywhere else.** The very fact that the right to protest is acknowledged as a fundamental right under the constitution, makes it subject to reasonable restrictions.”*

16.From the ratio laid down by the Hon'ble Supreme Court and this Court in the above cited judgments, it can be concluded that the right of protest and expression of opinion is provided under Article 19 of the Constitution of India, but the same is subject to reasonable restrictions, which can be imposed by the State.



W.P.Crl.(MD)No.448 of 2025

17.The issue also has to be approached from the point of view of the rights of the general public and those who are not associated with the protest. The right of protest should not infringe on the right of the general public and those who are not associated with the protest. The right to protest, does not include the right to cause inconvenience to the public. The sacrosanct right of protest cannot be used in a cavalier manner to cause persistent irritation or disharmony to the general public. The aspect of visual and auricular violation aggression against the general public should be kept in mind while such protests are carried out. The public places are basically meant for the use of public and while protesting in such places is a valuable democratic tool, the purpose for which such places exist should not be forgotten. No person can claim that he should be allowed to protest repeatedly at the same place without restrictions.

18.This court cannot find fault with the reasons assigned by the respondent police for rejecting the request of the petitioner for conducting the protest in the same place on 08.07.2025 that they are expected to provide police protection to the Kanda Devi temple car festival. The petitioner claims that the protest has to be conducted with

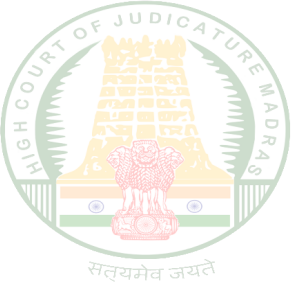


W.P.Crl.(MD)No.448 of 2025

their party leader. It appears that the petitioner political party's leader has not participated in the protest conducted by them on 03.07.2025 and therefore, it is open to the petitioner to submit a fresh application to the respondent police and on receipt of such application, the respondent police shall consider the same and take a decision within a period of twenty four hours.

19.Further, this Court is taking notice of the averments made in the counter affidavit filed today that on 03.07.2025 some of the speakers participated in the protest conducted by the petitioner political party had wantonly used filthy language and mentioned communal names and had tried to provoke a particular community. One of the speakers had referred to the complainant (Nikita) in such terms that demean the dignity of women in general.

20.Though the respondent police have stated in their counter affidavit filed today about the occurrence said to have taken place on 03.07.2025, it appears that the respondent police have not taken action as against the persons, who have violated the law. Every one is bound by law. It is the responsibility of the law enforcing authority to implement the law in its true spirit.



W.P.Crl.(MD)No.448 of 2025

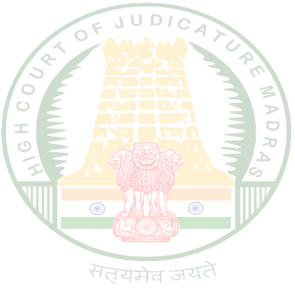
WEB COPY 21.This writ petition is disposed of in the above terms. No costs.

09.07.2025

DSK

Note: Issue order copy today
To

- 1.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 2.The Deputy Superintendent Of Police,
Manamadurai Sub Division,
Sivagangai.
3. The Inspector of Police,
Thirupuvanam Police Station,
Sivagangai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P.Crl.(MD)No.448 of 2025

B.PUGALENDHI, J.

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W.P.Crl.(MD)No.448 of 2025

09.07.2025