

W.P.(MD)No.20097 of 2018

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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Reserved on 01.12.2022	Pronounced on 11.01.2023
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CORAM

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

W.P.(MD)No.20097 of 2018  
and  
WMP(MD) No.21435 of 2022

Po.Mu.Iraniyan @ Muthu Murugan

.. Petitioner

Versus

- 1.The Union of India,  
Rep. by the Secretary to Government,  
Ministry of Information and Broadcasting,  
Shashtri Bhavan,  
New Delhi - 110 001.
- 2.The State of Tamil Nadu,  
Rep. by the Chief Secretary to Government,  
Secretariat,  
St. George Fort,  
Chennai - 5.
- 3.The Director General of Police,  
Dr.Radhakrishnan Salai,  
Mylapore,  
Chennai - 4.
- 4.The Director of Tribunal Welfare,  
Chepauk,  
Chennai - 5.

.. Respondents



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**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, (i) directing the second respondent to take appropriate proceedings to ban the conduct of cultural programme, which denigrate the social status and repute of the Kuruvar community people; (ii) directing the third respondent to give necessary instruction to all his subordinates not to grant police permission for conduct of any Aadal Paadal programme having "Kuruvar-Kurathi" dance, in any form, in the State of Tamil Nadu; (iii) directing the first respondent to take effective steps, to the extent possible, to purge obscene "Kuruvar-Kurathi" dance videos from the Internet websites i.e., Youtube, Facebook and also to ensure no broadcasting of such videos by any television channel operator.

For Petitioner : Mr.N.Karthik Kanna

For Respondents : Mr.J.Alaguram Jothi  
Senior Panel Counsel for R-1

Mr.S.P.Maharajan  
Special Government Pleader for R-2 and R-4

Mr.S.Ravi  
Additional Public Prosecutor for R3

### **ORDER**

#### **R. MAHADEVAN, J.**

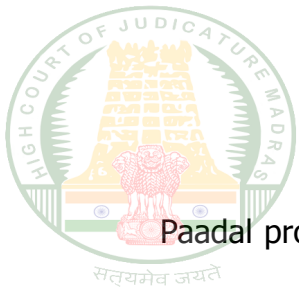
This land is the home to the oldest language, culture and civilization. From the time immemorial, it has had the culture of describing a person, based on his occupation and place of residence. Thus, they formed a community, which slowly evolved into a caste. The castes and sub-castes have increased tremendously and so is the discrimination based on caste. Resultantly, now-a-days, certain downtrodden communities are being denigrated by misappropriation and misrepresentation of their



indigenous dance, art forms and culture simply by using their names and caste identity without their consent. Such practice cannot be permitted to prevail in society and it becomes a bounden duty of the government to ensure that all the people are treated equally in all means. With this preface, this court wishes to proceed with this case.

2.The petitioner claiming to be the General Secretary of Vanavengaigal Peravai, which is an organisation functioning to promote the welfare and social upliftment of the people belonging to 'Kuravar' community, has come up with this public interest litigation to issue a Writ of Mandamus (i) directing the second respondent to issue appropriate proceedings to ban the conduct of cultural programmes, which denigrate the social status and reputation of the people belonging to Kuruvar community; (ii) directing the third respondent to give necessary instruction to all his subordinates not to grant police permission for conduct of Aadal Paadal programmes having "Kuruvar-Kurathi" dance, in any form in the State of Tamil Nadu; and (iii) directing the first respondent to take effective steps to the extent possible to purge obscene "Kuruvar-Kurathi" dance videos from the Internet (websites) i.e., Youtube, Facebook, etc and also ensure no broadcasting of such videos in any television channel.

3.1. According to the petitioner, in his Vilangudi village, Madurai District, during festive times, there has been a practice of conducting stage dramas and Aadal



Paadal programmes, in which, there has been a frequent casting of tribal couple i.e., Kuravan-Kurathi. In early times, those stage dramas portrayed moral stories from their holy epics and the Aadal Paadal programmes contained traditional dance and divine songs embodied with good social messages. However, later, the same have been discoloured and flooded with vulgarities. Further, there has been unfettered usage of obscene words and gestures of double entendre.

3.2. The petitioner further stated that most of those dancers do not belong to any tribal community, but portray as belonging to Kuravar community by simply using the name. The spectators get the impression that the people belonging to Kuravar community are ill-cultured. As a result, the people belonging to other communities show hatred towards all tribal people, regardless of the individual's socio-economic status. It is also stated by the petitioner that the scandalous portrayal of Kuravar community hurts the feelings of the people belonging to the said community and it promotes the violence towards the tribal community. The dance videos are widely uploaded and shared in popular websites viz., YouTube, Facebook, etc. It wrongly portrays and perpetuates the bad reputation which drastically affects the harmony of the people belonging to the said community. Therefore, the petitioner sent a representation dated 21.04.2018 to the Chief Minister of Tamil Nadu and the Secretary of Social Welfare Department, requesting to take stringent action against the conduct and exhibition of those ill-cultured dance and dramas using the name Kuravan-Kurathi in any form and



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anywhere. However, till date, no action has been taken on the same. Therefore, this writ petition.

4.Mr.N.Karthik Kanna, learned counsel for the petitioner submitted that the people belonging to Kuravar community have rich tradition and adorable life style in harmony with nature. Their culture finds place in many of the ancient Tamil literary works, where they are mentioned as the ethnic people of 'Kurinji' land. However, due to many social, political and religious issues, the social status of the people belonging to Kuravar community has highly degraded and is presently in a pathetic condition. Though there are rights envisaged under the Constitution to protect the interest of the people belonging to Kuruvar community, the same have not been effectively ensured / enforced by the authorities. Resultantly, the people belonging to Kuruvar community have been struggling to lead a decent and respectful life. It is also submitted by the learned counsel that the dance videos uploaded and shared in social media, such as, YouTube, Facebook, etc. wrongly portrays and perpetuates the bad reputation which drastically affects the harmony of the people belonging to the said community. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities in this regard.

5.It is the submission made on the side of the respondents 2 and 4 that the respondent authorities are treating all the people equally, irrespective of their caste, race, religion, etc., and that, the Government formulates various schemes for welfare



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and upliftment of down trodden communities and they have taken immediate action against the persons, who indulge in degrading the people belonging to other communities in any form and anywhere. Hence, there is no requirement to pass any order in this writ petition.

6.The learned Additional Public Prosecutor appearing for the third respondent 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 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 tranquillity and if any violation is noticed, the police authorities were directed to take stringent criminal action against the concerned persons in accordance with law without any delay. The learned Additional Public Prosecutor further submitted that thereafter in 2019, referring to various orders passed by this Court with regard to grant of permission to hold various events, such as, Aadal Padal programme, etc, with stipulated conditions, the Director General of



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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, etc, have been issued. The said circular memorandum has been addressed to all the Commissioners of Police and Superintendents 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 General of Police in Zones, all the Deputy Inspectors General 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 respondent authorities are following the earlier order passed by the Division Bench of this Court in W.P(MD)No.16077 of 2017 dated 31.08.2017 and the directions contained in the Circular Memorandum in Rc.007301/Genl I (1)/2019 dated 09.04.2019, in letter and spirit.

7.Heard the learned counsel appearing for all the parties and perused the materials available on record.

8.The petitioner's grievance is that the people belonging to Kuravar community are being degraded now-a-days in the cultural programmes / Aadal Paadal programmes and even when complaints are lodged against the same, no effective action has been taken thereof. Therefore, it is essential that the Government take



stringent action against such conduct and exhibition of uncultured dances and dramas that use the name of Kuravan-Kurathi in any form. Further, the dance videos uploaded and shared in the social media thereby portraying and perpetuating bad reputation on the people belonging to the said community, have to be curtailed by the authorities concerned.

9.As per the Historians, the Kuravars are a Dravidian tribal community, hailing from the Indian states of Karnataka, Kerala and Tamil Nadu. Also known as the Kurumbas, they descended from the line of the ancient hunter-gatherers of the area and have a rooted connection with their rich cultural heritage. In addition to their own language, traditional songs, dances and dramas, the Kuravars have a customary tradition of storytelling and the tales of their bravery, valour and morality have passed down from one generation to the next. Their culture is closely intertwined with nature and the environment with a deep attachment to their lands. They practice shifting cultivation and depend upon the forests for their daily needs and sustenance. However, in recent times, the community faces a plenty of issues including illiteracy and inaccessibility to basic human necessities.

10.There are legal provisions that prohibit and offer protection against discrimination on the basis of caste, apart from Articles 14, 15 and 17 of the Constitution. The Protection of Civil Rights Act, 1955 (PCR Act) prohibits the enforcement of social or economic disabilities on any person on the ground of his or





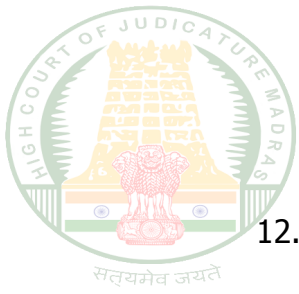
her caste. It also prohibits the use of caste name for the purpose of insulting on the ground of untouchability. Any person violating the provisions of this Act may be punished with imprisonment of up to one year and/or a fine of up to five thousand rupees. Further, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 makes intentional insult or intimidation with an intent to humiliate a member of Scheduled Tribe in any place of public view, a punishable offence.

11.1. Several provisions of the Indian Penal Code, 1860 deal with punishment against indecent representation of women and obscenity. Section 294 specifically makes performance of an obscene act in a public place the annoyance of others, an offence. The same reads as under:

*"Whoever, to the annoyance of others—  
(a) Does any obscene act in any public place, or  
(b) Sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."*

11.2. Section 509 IPC provides that any word, gesture or act intended to insult the modesty of a woman is an offence, and the same reads as under:

*"Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both."*



12. That apart, the Parliament enacted the Indecent Representation of Women (Prohibition) Act, 1986 with an intention to prohibit indecent representation of women through advertisements or in publications, writings, paintings, and figures or in any other manner.

13. Further, Section 67 (A) of the Information Technology Act, 2008 deals with punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form and the same reads thus:

*"Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees."*

14. In ***K.Senthil Mullar v. Government of Tamil Nadu [2017(2) Writ LR 804 : 2017 (6) CTC 225]***, a Full Bench of this court, in which, one of us (RMDJ) was a member, has observed that '*there cannot be any justification in lifting a community by demeaning other communities*'.

15. In WP(MD)No.21756 of 2022 filed by one B.Ramkumar Adityan, considering the nature of the relief sought therein, one of us (RMDJ) by order dated 14.09.2022, has directed the police authorities to prohibit the obscene and vulgar dance



performance in the cultural programme and if any one violates the same, take appropriate action against them. The relevant passage of the said order is usefully extracted below:

"....

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 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."*

Thus, it is evident that everyone should be accorded equal treatment and afforded protection of their rights in all spheres of life, without any form of discrimination or prejudice based on religion, race, caste, sex or place of birth and in any form of such discrimination or violation of rights, warrant action in accordance with law. Further, the aforementioned provisions would also ensure that mistreatment and



misrepresentation of women is not tolerated and that, any community is not degraded or discriminated against on the ground of their caste.

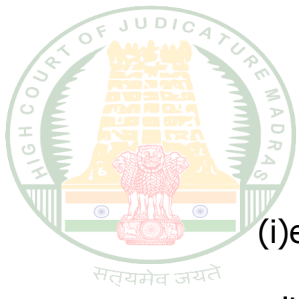
16.At present, the Kuravar community has been historically and culturally marginalized, with members of this community being denied access to basic services, education, and employment opportunities. This has led to a lack of representation in the mainstream and has resulted in a feeling of alienation among members of the community. Therefore, this court is of the opinion that the state must take proactive measures to address the concerns of the community and to ensure that they are provided with all the rights and privileges that are available to other citizens. The state must also ensure that the Kuravar community is given equal access to education, employment and other basic amenities, and that their rights are respected and protected at all times.

17.As already stated, Kuravan - Kurathi Attam is one of the art forms performed in the village festivals. A couple will perform on the stage portraying kuravan-kurathi. They showcase their talents and exhibit their knowledge, current social problems and richness of their homeland. Initially, the dance performances were related to social problems and politics, however, this has undergone a change during the recent times. The performances began incorporating obscene and sexual dances, to ensure the audience stay captivated throughout the night of the festival. The use of traditional karagam was reduced gradually as a mere factor of



entertainment. It has normalized the objectification of women and some villagers even consider it to be a coming of age experience for adolescent boys and normalize the performers as objects to male desire. We do not find any substantial proof to establish that the art form is still being performed by individuals belonging to the Kuravar community. Despite various directions of this Court, obscenity in the dance persists. Obviously, such misrepresentation and misappropriation of Kuravar's indigenous art form will hurt the community's feeling and acts of objectification under the guise of their community, ultimately leads to the persons belonging to the community being disrespected and ostracised, though they are not involved in the performances. Nevertheless, banning of such art form will amount to violation of fundamental rights of the individual performers and groups. Further, such dance video uploaded and shared in the social media, such as, YouTube, Facebook, etc. affects the harmony of the people belonging to the said community. Therefore, we find it appropriate to give certain directions to prohibit the use of the names of 'Kuravar-Kurathi' in performances in which they are not involved. The names used in videos on social media, identifying the dance performance with the Kuravar community shall be expunged and appropriate criminal action shall also be initiated against such violators by creating a separate portal by Cyber Crime department so as to enable the general public to make their complaints with supportive documents.

18. Accordingly, this writ petition stands disposed of, with the following directions to the respondent authorities:



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(i)ensure that no dance performance is identified using a caste/ tribal community's name so as to insult or degrade the persons belonging to such community;

(ii)not to grant permission for the cultural programme / Aadal - Paadal programme depicting obscene and denigrating the social status of the people belonging to Kuravar community, and if any complaint is made, action be taken against the violators forthwith,

(iii)to open a separate portal by the Cyber Crime department for general public to post their complaints with necessary evidence about the scandalous dance videos of such community, and on receipt of the same, the official concerned shall verify and expunge the same, besides taking criminal action against the offenders.

No costs. Consequently, connected miscellaneous petition is closed.

**[R.M.D., J.] [J.S.N.P., J.]**  
**11.01.2023**

Speaking Order/Non speaking order.

Internet : Yes.

Index : Yes.

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To

1.The Secretary to Government,  
Government of India,  
Ministry of Information and Broadcasting,  
Shastri Bhavan, New Delhi - 110 001.



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2.The Chief Secretary to Government,  
Government of Tamil Nadu, Secretariat,  
St. George Fort,  
Chennai - 5.

3.The Director General of Police,  
Dr.Radhakrishnan Salai,  
Mylapore, Chennai - 4.

4.The Director of Tribunal Welfare,  
Chepauk, Chennai - 5.



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

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Pre-delivery Order in  
**W.P.(MD)No.20097 of 2018**

**11/01/2023**