VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

TUESDAY, THE 10TH DAY OF NOVEMBER 2026 / 19TH KARTHIKA, 1948

WP(C) NO. 17410 OF 2026

PETITIONER:

MAHADEVAN,
AGED 53 YEARS, S/O M KOLAPPA PILLAI,
MADHU BHAVAN, KRISHNAMENON ROAD, UDAYAMPEROOR,
MANAKUNNAM, ERNAKULAM, PIN - 682307

BY ADVS.
SHRI.ANAND KALYANAKRISHNAN
SRI.S.RAJEEV
SRI.C.DHEERAJ RAJAN
SRI.V.VINAY
SRI.M.S.ANEER
SHRI.LIBIN VARGHESE

RESPONDENTS:

1 STATE OF KERALA,
REPRESENTED BY SECRETARY, TAXES (G) DEPARTMENT,
GOVT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

2 THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
EXCISE HEADQUARTERS, NANDAVANAM,
THIRUVANANTHAPURAM DISTRICT, PIN - 695033

3 THE DEPUTY COMMISSIONER OF EXCISE,
ERNAKULAM, EXCISE ZONAL OFFICE, EXCISE ZONAL
COMPLEX, KACHERIPPADY, ERNAKULAM, PIN - 682018

4 ASSISTANT COMMISSIONER OF POLICE,
ERNAKULAM, OFFICE OF THE ASSISTANT COMMISSIONER OF
POLICE, NEAR HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682018

5 STATION HOUSE OFFICER,
KADAVANTRA POLICE STATION, NEAR RAJIV GANDHI INDOOR
STADIUM, MARKET ROAD, GANDHI NAGAR, ELAMKULAM,
ERNAKULAM, PIN - 682020

VERDICTUM.IN

CNR : KLHC010369682026

2026:KER:85771

*ADDL.R6 THE COMMISSIONER OF POLICE,
ERNAKULAM CITY, OFFICE OF THE COMMISSIONER,
ABDUL KALAM MARG, MARINE DRIVE, ERNAKULAM-682011

*(ADDL R6 IS IMPLEADED AS PER ORDER DATED 11/06/26 IN IA/1/26 IN WP(C) 17410/26)

SHRI.P.A.MOHAMMED SHAH, ADDL.ADVOCATE GENERAL
SHRI. RENOY VINCENT GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14.08.2026, THE COURT ON 10.11.2026 DELIVERED THE FOLLOWING:

VERDICTUM.IN

CNR : KLHC010369682026

2026:KER:85771

"CR"

J U D G M E N T

The petitioner is the licensee of a bar hotel at Ernakulam which is having five star classification. Ext. P2 is the FL-3 Licence renewal certificate issued in respect of the petitioner's hotel.

2. The Government of Kerala, vide Ext.P3 notification dated 13.02.2026, amended Rule 28 (1) of the Foreign Liquor Rules, 1953 and the proviso thereto, granting permission to FL-3 licensed bar hotels having 5 star classification and above to function for an additional three hours time after the permissible closing time, on payment of an additional annual rental, in the interest of promoting meetings, incentives, conferences and exhibitions (MICE) tourism, destination wedding, international conference etc. The petitioner applied for the benefit of Ext. P3 and paid Rs.5,00,000/- as fee to the Government. The 3rd respondent, the Deputy Commissioner of Excise, vide Ext.P4 order, granted permission to the petitioner to function the hotel for an additional three hours after the permissible closing time, for the financial year 2026-27.

3. The petitioner states that despite having the benefit of

VERDICTUM.IN

CNR : KLHC010369682026

2026:KER:85771

Ext. P4, the 5th respondent, the Station House Officer (SHO) is constantly harassing him and his staff by issuing repeated notices directing him not to conduct any DJ party in the hotel. Ext. P5 notice dated 27.03.2026 was issued by the SHO to the Manager of the hotel directing not to function the hotel beyond 12 O' clock in the midnight and to stop celebrations using loud speakers after 10:00 p.m. Ext. P6 dated 30.03.2026 is the subsequent notice issued by the SHO to the Manager stating that DJ parties were being regularly conducted at the hotel with lots of young men and women participating and that quarrels occurred during such parties under consumption of narcotic substances. The petitioner was accordingly directed to refrain from conducting DJ parties at the hotel until further orders. On 28.04.2026, the 4th respondent, the Assistant Commissioner of Police issued Ext. P7 notice stating that as part of the measures taken to maintain law and order in the Central Sub-Division, all bars within the Sub-Division are to stop operations by 12 midnight, in accordance with the regulatory closing time prescribed by the Government, and to stop conducting DJ parties by 11:00 p.m. Ext. P8 FIR was registered against the petitioner under Section 223 of the

VERDICTUM.IN

Bharatiya Nyaya Sanhita, 2023 for conducting DJ party in the hotel till 3.00 a.m. on 30.04.2026, in violation of Exts. P6 and P7 notices.

4. According to the petitioner, the allegation that he is conducting DJ party in the hotel is not true and he is only conducting the bar on the strength of Ext. P4 order till the time permitted therein. The petitioner states that due to constant harassment meted out to him and his staff by respondents 4 and 5, he is not able to open the bar hotel and function the same and this has infringed the fundamental rights guaranteed under Article 19(1) (g) of the Constitution of India. The petitioner further states that when the 3rd respondent, vide Ext. P4 order, had extended the functioning of the bar hotel by 3 hours on the basis of the amendment brought out to the Foreign Liquor Rules, and on payment of additional annual rental of Rs. 5,00,000/-, the same cannot be curtailed by respondents 4 and 5, the officials of the Government. Accordingly, the petitioner has filed this writ petition challenging Exts. P5 to P7 notices and to direct respondents 4 and 5 to permit the functioning of the bar hotel in accordance with Exts. P2 and P4.

5. A Statement has been filed by the Commissioner of

VERDICTUM.IN

Police, Ernakulam City, the additional 6th respondent contending that under the guise of an FL-3 license and Ext. P4 extension issued by the Excise Department, the petitioner has been conducting late-night DJ parties allegedly resulting in incidents of drug abuse, violent disturbances, and public safety concerns. It is stated that Ext. P1 classification and Ext. P2 licence do not confer any absolute or unfettered right to the petitioner to threaten public order or disregard lawful directions issued by the competent authorities of the Police intended to maintain public tranquillity. An FL-3 licence is confined to the service of liquor and meals within the licensed premises and does not authorise high-decibel DJ events or large-scale gatherings beyond what is permitted by law. It is stated that the police have only imposed restrictions on the timings of such DJ events in the interest of maintaining public order. It is further stated that Ext. P3 notification enabling extension of operating hours of classified bar hotels cannot be treated as an unrestricted right to conduct activities prejudicial to public peace, law and order, or public safety, such as DJ parties. The extension of operating hours is subject to strict compliance with all applicable laws and maintenance

VERDICTUM.IN

of public order. Ext.P3 notification does not curtail or override the statutory powers and duties of the police under the Kerala Police Act, 2011. The police are empowered under Sections 77 to 79 of the Kerala Police Act to take preventive and regulatory action in cases involving threats to public safety, nuisance, or disorder. Sections 4(d), (e), and (g) of the Kerala Police Act mandate maintenance of public security and prevention of danger and crime. It is stated that these provisions apply to DJ parties, as they are commercial events that attract large crowds, creating risks of public nuisance, disorder and law and order issues, thereby justifying restrictions beyond 11:00 p.m. as a preventive measure to ensure public safety and tranquillity. The additional 6th respondent has given the details of incidents affecting public safety and public order reported from the petitioner's establishment, during this year and details of criminal cases registered at Kadavanthra Police Station relating to offences including narcotic drug trafficking, assault, rioting in and around the petitioner's hotel, and damage to property within the hotel premises. It is stated that Ext. P5 notice was issued by the SHO following complaints from the public. Ext. P6 notice was issued on detection of

VERDICTUM.IN

offences under the NDPS Act in connection with late-night rave party at the hotel premises. Ext. P7 notice was issued by the Assistant Commissioner of Police, Ernakulam Central, pursuant to a stakeholder meeting convened by him with DJ party operators to formalise 11:00 p.m. as the regulatory cut-off time for DJ events, with a view to balancing commercial interests against the imperative of maintaining public order and law and order in the city. It is stated that reports were received by the 6th respondent from Station House Officers and the District Special Branch, Kochi City, regarding law and order issues, public nuisance, and security concerns arising from late-night DJ events conducted at various establishments within Kochi City which indicated that the congregation of large crowds during late-night hours has resulted in disturbances to public peace and has been associated with the registration of criminal cases, including offences under the NDPS Act as well as offences against women, in the city since 2023. The 6th respondent upon examination of the reports and other relevant materials, found it necessary to introduce regulatory measures in the interest of public order and safety. Accordingly, in exercise of the powers conferred under

VERDICTUM.IN

Sections 77 to 79 of the Kerala Police Act, 2011, Annexure R6(e) dated 28.04.2026 and Annexure R6(f) dated 16.05.2026 were issued by 6th respondent, stipulating that DJ programmes and related entertainment activities shall not be conducted beyond 11:00 p.m. The orders were communicated to the DJ operators by the concerned Sub-Divisional Police Officers by conducting meetings and issuing notices. Despite the same, the petitioner conducted a DJ event beyond the permitted time during the intervening night of 29.04.2026 and 30.04.2026 and consequently, Ext. P8 FIR was registered against the petitioner. It is stated that the respondents have never interfered with the lawful operation of the petitioner's bar hotel or the sale of liquor during the extended hours permitted under the orders issued by the competent authorities. The actions of the police were confined to regulating DJ programmes and similar entertainment activities in accordance with the directions issued in this regard in the interest of public order, safety, and law enforcement. The 6th respondent has produced Annexure R6(h) list to show that the Police have, so far, registered 27 criminal cases in Kochi City related to late-night events, including cases involving

VERDICTUM.IN

unlawful gatherings, drug-related offences, crimes against women and other violations of law. It is further stated that the petitioner's right to carry on trade or business under Article 19 (1) (g) of the Constitution is subject to reasonable restrictions imposed in the interest of the general public under Article 19(6).

6. A reply statement has been filed by the petitioner wherein it is stated that when the petitioner is permitted to hold DJ parties till 11.00 p.m., the discrimination based on large scale gatherings after 11.00 p.m., has no rationale. It is further stated that Sections 4, 77, 78 or Section 79 of the Kerala Police Act do not restrict conduct of DJ parties after 11.00 p.m. It is stated that there are no evidences to contend that the conduct of DJ parties is a public safety concern or causing any nuisance or disorder among the public and under the guise of public security and crime, the police are intruding into the fundamental rights of the petitioner to conduct his business. There is no evidence to prove that the petitioner or his hotel has any involvement in the crimes referred to in the statement filed by the 6th respondent and merely on the anticipation that there may be chances of committing crimes during the DJ parties,

VERDICTUM.IN

restrictions cannot be imposed on the petitioner's business. Theatres in the City conduct shows late into the night and large numbers of people assemble in temples, churches, mosques and other places of worship at late hours in connection with religious festivities and prayers. If any untoward incidents happen, it is the duty of the police to effectively interfere so as to curb the same. The petitioner states that, cloaking restriction in the guise of law and order is not permissible.

7. Heard Sri. Anand Kalyanakrishnan, the learned counsel for the petitioner and Sri. P.A.Mohammed Shah, the learned Additional Advocate General assisted by Sri. Renoy Vincent, the learned Government Pleader.

8. The Government of Kerala, vide Foreign Liquor (Amendment) Rules, 2026 (Ext.P3 notification), amended Rule 28 (1) of the Foreign Liquor Rules, 1953 with effect from 13.02.2026 to bring uniformity in the operating timelines of bar hotels and Beer and Wine Parlours in the State. Rule 28(1), along with its proviso, as amended, reads as follows:

"28. No FL-3, FL-11 licensed premises shall be kept open

VERDICTUM.IN

> before 10 O'clock in the morning and after 12 O'clock in the midnight. No FL-4A licensed premises shall be kept open before 11 O'clock in the morning and after 11 O'clock in the night.
>
> Provided that the FL-3 licensed premises of bar hotels having 5 star classification and above may be permitted to be kept open for an additional 3 hours time from 12 O'clock in the midnight on payment of an additional annual rental of ₹ 5,00,000 (Rupees Five Lakh only) subject to the condition that the licensed premises of such hotels shall function only up to 12 O'clock in the midnight if the immediately succeeding day is a statutory dry day as provided in rule 28A of these Rules."

The Explanatory Note to Ext. P3 notification reads as follows:

> "Government of Kerala have decided to bring uniformity in the operating hours of Bar Hotels and Beer and Wine Parlours functioning in the State. Government have also decided to grant permission to FL.3 licensed Bar Hotels having 5 star classification and above to function an additional 3 hours time after the permissible closing time, on payment of an additional annual rental, in the interest of promoting Meetings, Incentives, Conferences and Exhibitions (MICE) tourism, destination wedding, international conference and other conferences. For the above purpose, the Foreign Liquor Rules, 1953 needs to be amended suitably."

The petitioner applied for the benefit of Ext. P3 and the Deputy Commissioner of Excise, vide Ext. P4 order, granted permission to operate the hotel for an additional three hours beyond the permitted operating hours, on payment of a fee of Rs.5,00,000/- to the Government. In the light of Exts. P3 and P4, the petitioner's hotel is entitled to operate for an additional three hours beyond the

VERDICTUM.IN

permissible closing time, i.e., until 3:00 a.m., except on the eve of a statutory dry day, when operations shall be stopped at 12 O'clock in the midnight. The entitlement of the petitioner to keep open the FL-3 licenced premises for an additional three hours beyond the permissible closing time as per Exts. P3 and P4 is not disputed in the statement filed by the additional 6th respondent.

9. Then the question is, can restrictions be imposed on entertainment activities within the hotel premises, including DJ programmes, after 11:00 p.m. and during the additional three hours permitted beyond the normal closing time?

10. According to the learned Additional Advocate General, the police are empowered under Sections 77 to 79 of the Kerala Police Act to take preventive and regulatory action in cases involving threats to public safety, nuisance, or disorder and in exercise of said powers, Annexure R6(e) and Annexure R6(f) were issued by the 6th respondent, stipulating that DJ programmes and related entertainment activities shall not be conducted beyond 11:00 p.m.

11. In this context, it will be apposite to extract the provisions of the Kerala Police Act relied on by the Additional

VERDICTUM.IN

Advocate General. Sections 4(d), (e), and (g) read thus:

> "**4. Functions of the Police**.- The Police Officers shall, subject to the provisions of this Act, perform the following functions, namely:
>
> xxx
>
> (d) to promote and protect arrangements ensuring public security and maintain public peace;
>
> (e) to protect the public from danger and nuisance;
>
> xxx
>
> (g) to prevent and reduce crimes, exercising lawful powers to the maximum extent.

Sections 77 to 79 of the Kerala Police Act read as under:

> **"77. Regulating nuisance caused by noise.-** (1) The District Police Chief may, in order to prevent nuisance, harm, odium, damage or risk to the public or to any person residing in an area if he is satisfied that it is necessary to do so, issue necessary special or general directions for preventing or regulating in any street, open space or any other building,-
>
> (a) any vocal or instrumental music or speech;
>
> (b) any sound caused by the use in any manner whatsoever of any instrument or contrivance which is capable of making, producing, reproducing or amplifying sound; or
>
> (c) any trade, vocation or activity which creates or causes any sound or noise.
>
> 2) The District Police Chief may either on his own motion or on the application of any person aggrieved by an order made under sub-section (1) rescind, modify or alter any such order.

VERDICTUM.IN

78. Regulation to prevent violence.- (1)The District Police Chief may, if it is satisfied from the circumstances that it is necessary for the preservation of public peace or public safety, by notification, either proclaimed or specifically addressed to individuals, prohibit or control in any manner for a period not exceeding fifteen days in any place,

(a) the preparation, storage or transport of destructive material, explosives, gun powder, stones or other missiles or instruments which can be used for the making of or launching of missiles or any weapon or any other object which can be used for attack; or

(b) the exhibition of living persons or corpses; or

(c) the preparation, exhibition, representation, distribution or dissemination of pictures, symbols, placards, printed matter, pamphlets, books, audio-video recordings, digital records, posters which may inflame communal or religious passions or offend general standards of public morality or seriously affect public peace or endanger security of the nation.

(2) Any article used or carried by any person in contravention of any prohibition under sub-section (1) may be seized by a Police Officer on duty.

79. Regulation of public assemblies.- (1)The District Police Chief may, if in his considered opinion, such action is justified in the interest of maintenance of law and order or preservation of public peace or public safety, by notification proclaimed, permit, control or regulate any public assembly or procession in any manner.

(2) No notification proclaimed under sub-section (1) shall remain in force for more than fifteen days from the date of such proclamation.

VERDICTUM.IN

> (3) The State Government may either on its own motion or after due enquiry on the application of any person rescind, modify or alter or extend the period of validity of any such notification issued under sub –section (1).
>
> (4) The State Government may, by general or special order, on busy through fares, specify that such demonstrations, rallies or assemblies should be carried out only at certain specified places or along specified routes in urban areas for ensuring that demonstrations on busy public roads do not seriously affect public life."

12. "DJ" primarily stands for "disc jockey," a person who selects, mixes, and plays recorded music for an audience. A disc jockey (DJ) performs at nightclubs, music festivals, parties, weddings, and on radio and television. A "DJ party" is a social gathering or event where a DJ selects, mixes, and plays recorded music live to entertain the audience and keep people dancing. DJ parties are organised in restaurants and bars to attract more customers. DJing, whether regarded as a technical craft or a form of performance art, is neither a prohibited craft nor a prohibited art.

13. Persons participating in a DJ party have the fundamental right under Article 19(1)(b) of the Constitution of India to assemble peaceably and without arms, at any place where they are otherwise lawfully entitled to be, subject to reasonable restrictions, if any,

VERDICTUM.IN

imposed under Article 19(3). So far as the petitioner, being the licensee of the FL-3 hotel, is concerned, he has the fundamental right under Article 19(1)(g) of the Constitution to practise any profession or to carry on any occupation, trade or business, subject to reasonable restrictions that may be imposed under Article 19(6). That apart, the right of every person who dwells or lives in the vicinity of such trade or business to live free from noise pollution or any other form of environmental pollution that adversely affects health, peace and tranquillity is an integral part of the right to life and personal liberty guaranteed under Article 21 of the Constitution.

14. Section 77 of the Kerala Police Act empowers the District Police Chief to issue directions to regulate nuisance caused by noise. Section 79 of the Kerala Police Act empowers the District Police Chief to issue notification to regulate public assemblies in the interest of maintenance of law and order or preservation of public peace or public safety. It is a power to permit, control and regulate, and not a power to impose an indefinite prohibition. Annexures R6(e) and R6(f) impose restrictions on the conduct of DJ parties and the playing of high-decibel musical events within Kochi City Police jurisdiction

VERDICTUM.IN

beyond 11:00 p.m. According to the additional 6th respondent, Annexures R6(e) and R6(f) were issued under Sections 77 to 79 as a preventive measure to ensure public safety and to prevent nuisance. It is contended that DJ party is a high-intensity commercial event involving amplified sound, elaborate lighting effects and large, densely packed crowds associated with alcohol consumption and alleged drug use, leading to disorder, brawls, public nuisance, difficulties in crowd assembly and dispersal, traffic disruption and wider law and order concerns. In view of these potential risks, it is contended that, DJ parties fall within the purview of Sections 77 to 79, and that restrictions on the conduct of such events beyond 11:00 p.m. are justified as a preventive measure in the interests of public safety and tranquillity. The main concerns associated with DJ parties according to the Police are noise pollution, alcohol consumption and alleged drug use and congregation of large crowds leading to traffic disruption.

15. It is essential to first examine the concerns associated with noise pollution caused by the playing of high-decibel music at DJ parties. Section 77 of the Kerala Police Act provides that the District

VERDICTUM.IN

Police Chief may issue necessary general or special directions to prevent or regulate, in any street, open space or other building, noise arising from music, speech, sound-producing or amplifying devices, or any trade, occupation or activity that causes noise, wherever such noise creates a nuisance, harm or risk to the public or any person residing in the area. The Noise Pollution (Regulation and Control) Rules, 2000 ('Noise Pollution Rules' for short), were framed by the Ministry of Environment and Forests to regulate and control noise-generating sources and to maintain the prescribed ambient noise quality standards. The ambient air quality standards in respect of noise for different areas/zones have been specified in the Schedule annexed to the Noise Pollution Rules. Rule 2(j) of the Noise Pollution Rules defines "night time" to mean the period between 10.00 p.m. and 6.00 a.m. Rule 5 of the Noise Pollution Rules reads as follows:

> **"5. Restrictions on the use of loud speakers/public address system and sound producing instruments.**
>
> (1) A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.
>
> (2) A loud speaker or a public address system or any

VERDICTUM.IN

sound producing instrument or a musical instrument or a sound amplifier shall not be used at night time except in closed premises for communication within, like auditoria, conference rooms, community halls or during a public emergency.

(3) Notwithstanding anything contained in sub-rule (2), the State Government may subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural, religious or festive occasion of a limited duration not exceeding fifteen days in all during a calender year and the concerned State Government or District Authority in respect of its jurisdiction as authorized by the concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption should be operative. *Explanation*.- For the purposes of this sub-rule, the expressions- (i) "festive occasion" shall include any National function or State function as notified by the Central Government or State Government; and

"National function or State function" shall include"-

(A) Republic Day;

(B) Independence Day;

(C) State Day; or

(D) such other day as notified by the Central Government or the State Government."

(4) The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10 dB (A) above the ambient noise standards for the area or 75 dB (A) whichever is lower;

(5) The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5dB

VERDICTUM.IN

(A) the ambient noise standards specified for the area on which it is used."

Rule 6 of the Noise Pollution Rules prohibits activities such as playing music, using sound amplifiers or loudspeakers, beating drums, sounding musical instruments, conducting performances that attract crowds and bursting sound-emitting firecrackers in silent zones. Rule 7 enables any person to lodge a complaint with the authority where noise levels exceed the prescribed ambient noise standards by 10 dB(A) or more, or where night-time restrictions are violated. Rule 8(1) empowers the authority, if satisfied, on the basis of a report from an officer in charge of a police station or any other information received by it, including information furnished by a complainant, that it is necessary to do so to prevent annoyance, disturbance, discomfort or injury, or the risk thereof, to the public or to persons residing in or occupying property in the vicinity, to issue written directions to any person for prohibiting, controlling or regulating the incidence or continuance, in or upon any premises, of vocal or instrumental music or sounds caused by playing, beating, clashing, blowing or using, in any manner whatsoever, any instrument,

VERDICTUM.IN

including loudspeakers. The 'authority' has been defined in Rule 2(c) to mean and includes any authority or officer authorised by the Central Government, or as the case may be, the State Government. As per G.O. (Rt.) No. 120/11/Envt. dated 08.11.2011, issued in exercise of the powers conferred by clause (c) of Rule 2 of the Noise Pollution Rules, the Government of Kerala have designated the District Magistrates, Commissioners of Police, Superintendents of Police and Deputy Superintendents of Police (Sub-Divisional Officers) as the authorities responsible for enforcing the prescribed ambient noise quality standards within their respective jurisdictions in the State.

16. Rule 5(2) of the Noise Pollution Rules prohibits the use of loudspeakers, public address systems, sound-producing instruments, musical instruments and sound amplifiers during night time (between 10:00 p.m. and 6:00 a.m.), except in closed premises for communication within such premises, such as auditoriums, conference rooms, community halls and banquet halls, or during a public emergency. Rule 5(5) provides that the peripheral noise level of a privately owned sound system or sound-producing instrument

VERDICTUM.IN

shall not, at the boundary of the private premises, exceed the prescribed ambient noise standard for the area in which it is used by more than 5 dB(A). Where the night-time restrictions are violated or the ambient noise standards prescribed for the area are violated, Rule 8 of the Noise Pollution Rules empowers the authority to issue preventive directions to prohibit, control or regulate the occurrence or continuance of noise pollution. Both, Section 77 of the Kerala Police Act and Rule 8 of the Noise Pollution Rules provide for the satisfaction of the concerned authority and issuance of a written order, to prohibit, control or regulate the occurrence or continuance of noise pollution. Where night-time restrictions or prescribed ambient noise standards are violated, the competent authority can issue preventive directions under Section 77 of the Police Act or under Rule 8 of the Noise Pollution Rules, as the case may be, subject to the applicable statutory procedures. The limitations imposed by Rule 77 of the Kerala Police Act and Rule 8 of the Noise Pollution Rules are only reasonable restrictions. Article 19(1)(g) of the Constitution does not guarantee a fundamental right to carry on any trade, occupation or business in a manner that causes pollution,

VERDICTUM.IN

whether noise pollution or any other form of environmental pollution, or adversely affects public health, peace and tranquillity. The willingness of an audience to listen to the playing of high-decibel DJ music does not, by itself, justify exposing person who dwells or lives in the vicinity to such sound against their wishes. The use of sound systems must, in all circumstances, comply with the prescribed ambient noise standards under Rules 3 and 5(4) and (5) of the Noise Pollution Rules and the restrictions on their use during night time under Rule 5(2), subject to the exceptions expressly provided therein. The freedom to live free from noise pollution is an integral part of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. This Court in **Jacob *v.* Superintendent of Police** [1992 (2) KLT 238] observed as follows:

> "22. A loud speaker is a mechanical device, and it has no mind or thought process in it. Recognition of the right of speech or expression is recognition accorded to a human faculty. A right belongs to human personality, and not to a mechanical device. One may put his faculties to reasonable uses. But, he cannot put his machines to any use he likes. He cannot use his machines to injure others. Intervention with a machine, is not intervention with, or invasion of a human faculty or right. No mechanical device can be upgraded to a human faculty. A computer or a robot cannot be conceded the rights under Art.19 (though they may be useful to man to express his faculties). No more, a loud speaker. The use of a loud speaker may be incidental

VERDICTUM.IN

> to the exercise of the right. But, its use is not a matter of right, or part of the right. I am in no way, not in the least way, narrowing down free speech, nor, attempting to cabin, confine and crib a cherished right, while holding that a mechanical aid is not a complement of human faculty, or its use the extension of a constitutional right. But, I consider that any measure of cosmetic surgery on the face of an aggressive act of aural aggression or trespass on the mind of another, will not make it resemble a right."

Following the aforesaid decision, the Hon'ble Supreme Court in **Forum, Prevention of Environmental and Sound Pollution *v.* Union of India and another** [2005 KHC 1158: AIR 2005 SC 3136] held as under:

> "10. Art.21 of the Constitution guarantees life and personal liberty to all persons. It is well settled by repeated pronouncements of this Court as also the High Courts that the right to life enshrined in Art.21 is not of mere survival or existence. It guarantees a right of persons to life with human dignity. Therein are included, all the aspects of life which go to make a person's life meaningful, complete and worth living. Human life has its charm and there is no reason why life should not be enjoyed along with all permissible pleasures. Anyone who wishes to live in peace, comfort and quiet within his house has a right to prevent noise as pollutant reaching him. None can claim a right to create noise even in his own premises which would travel beyond his precincts and cause nuisance to neighbours or others. Any noise which has the effect of materially interfering with the ordinary comforts of life judged by the standard of a reasonable man is nuisance. How and when a nuisance created by noise becomes actionable has to be answered by reference to its degree and the surrounding circumstances, the place and the time.
>
> 11. Those who make noise often take shelter behind Art.19(1)(a) pleading freedom of speech and right to

VERDICTUM.IN

> expression. Undoubtedly, the freedom of speech and right to expression are fundamental rights but the rights are not absolute. Nobody can claim a fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. While one has a right to speech, others have a right to listen or decline to listen. Nobody can be compelled to listen and nobody can claim that he has a right to make his voice trespass into the ears or mind of others. Nobody can indulge in aural aggression. If anyone increases his volume of speech and that too with the assistance of artificial devices so as to compulsorily expose unwilling persons to hear a noise raised to unpleasant or obnoxious levels, then the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Art.21. Art.19(1)(a) cannot be pressed into service for defeating the fundamental right guaranteed by Art.21. We need not further dwell on this aspect. Two decisions in this regard delivered by the High Courts have been brought to our notice wherein the right to live in an atmosphere free from noise pollution has been upheld as the one guaranteed by Art.21 of the Constitution. These decisions are Free Legal Aid Cell Shri Sugan Chand Aggarwal v. Govt. of NCT of Delhi [AIR 2001 Del 455 : 2001 (93) DLT 28 (DB)] and P.A. Jacob v. Supdt. of Police (AIR 1993 Ker. 1). We have carefully gone through the reasoning adopted in the two decisions and the principle of law laid down therein, in particular, the exposition of Art.21 of the Constitution. We find ourselves in entire agreement therewith."

Accordingly, this Court holds that, where high-decibel music played at DJ parties or other entertainment events involving sound-producing instruments results in violation of the restrictions applicable during night-time, except in circumstances expressly exempted under Rule 5(2) of the Noise Pollution Rules, or where the prescribed ambient noise standards for the area are violated, the

VERDICTUM.IN

Police Commissioner, the additional 6th respondent, is empowered to issue preventive directions under Section 77 of the Kerala Police Act or Rule 8 of the Noise Pollution Rules to prohibit, control or regulate the occurrence or continuance of noise pollution, subject to compliance with the procedures contemplated therein.

17. The next question to be considered is whether alcohol consumption and alleged drug use or congregation of large crowds associated with DJ parties justify invocation of Sections 77 to 79 of the Kerala Police Act to impose restrictions on the conduct of such events beyond 11:00 p.m.

18. In the light of Exts. P3 and P4, the petitioner's hotel is entitled to operate for an additional three hours beyond the permissible closing time, i.e., until 3:00 a.m. If that be so, can the Police restrict the DJ programmes and related entertainment activities in the hotel on ground of public peace and order, after 11:00 p.m. and during the additional three hours permitted beyond the normal closing time?

19. It is contended by the Additional Advocate General that several incidents involving criminal activities have been reported in

VERDICTUM.IN

connection with DJ parties. However, the very basis of the restriction imposed requires consideration. The Police permit such DJ parties to function until 11:00 p.m., and the dispute essentially concerns the extension of the permitted hours beyond that time. If criminal activities are indeed taking place in connection with such parties, it is difficult to understand how merely restricting their operation after 11:00 p.m. would prevent such activities. There is no apparent rationale for presuming that the possibility of criminal activities would cease to exist before midnight or that the incidence of crime would necessarily increase after midnight. The possibility of criminal activities cannot, by itself, justify the imposition of restriction on the extended hours of operation permitted under the Rules. If the Police have reason to believe that criminal activities are taking place under the guise of such DJ parties, it is certainly open to them to take appropriate and stringent action in accordance with law to curb the same. However, if the Government intend to impose restrictions on such activities on grounds of public peace and order, it is for the Government to frame appropriate rules carving out the necessary exceptions to the extended hours of operation permitted under the

VERDICTUM.IN

Foreign Liquor (Amendment) Rules, 2026. The Hon'ble Supreme Court, in **Karnataka Live Band Restaurants Association *v*. State of Karnataka and Others** (2005 SCC OnLine SC 1704), while considering whether the restrictions imposed on live band performances in hotels in Karnataka on grounds of public peace and order were arbitrary, adopted a balanced approach by weighing the performers' right to livelihood against the security considerations of the State and suggested appropriate regulatory measures. The relevant portion of the decision reads as follows:

> "6. Having heard the submissions of the parties, we are of the view that the High Court having quashed the order should have permitted the live bands to continue. There was no basis in law for forbidding them. The further directions should not have been passed keeping in view the interest of the members of such live bands in earning their livelihood. At the same time, we cannot overlook the possibility of the requirement for some amount of control. We have perused the impugned order and find that apart from certain infrastructural requirements, the impugned order had also sought to impose certain regulations on actual operation of the live bands, namely,
>
> "(h) that the proposed entertainment does not promote public gambling or the premises shall not be used as a gaming house or does not encourage prostitution or allow the use of narcotic substances or permit any other illegal activity;
>
> (i) that the licensee shall not organise or allow performance of shows which are immoral, obscene or indecent and ensure that there is no obscenity or

VERDICTUM.IN

indecency of dress, movement or gesture or that the performers indecently expose their person;

(j) the licence shall not permit any obscene or objectionable posters or pictures to be exhibited;"

The Order 2005 (Licencing and Controlling of Places of Public Entertainment) issued in the light of the above directions was upheld by the Hon'ble Supreme Court in **Karnataka Live Band Restaurants Association *v*. State of Karnataka and Others** [2018 KHC 6047: AIR 2018 SC 731]. It was held therein thus:

"64. As held above, the public interest, the welfare and the safety of general public always override the right of an individual. There is no prohibition for any individual to carry on such business. However, if he wishes to carry on such business, he has to follow the norms and the statutory regulation framed for carrying on the business. He cannot be heard to say that he will carry on the business but without ensuring the norms and the regulations framed for the purpose.

XXX

75. We do not find any merit in this submission though look attractive at its first blush. First, it is for the Police Commissioner to decide in its discretion having regard to the totality of entire fact situation as to what should be brought within the ambit of the O.2005 and what should be left out from its clutches. Second, there appears reasonable distinction between the two performances because as rightly urged by the respondent, the performances specified in the proviso, are not usually performed in restaurants but are performed in theaters or / and auditoriums as one time performance by the artists whereas the three performing items namely- Cabaret, Discotheque and Live Band Music are the

VERDICTUM.IN

> activities which are regularly performed and attract more crowd and lastly the items specified in proviso even if performed in restaurants does not involve any kind of indecency or obscenity whereas other three performances may unless controlled. In our view, proviso seems more clarificatory in nature."

Until the Government frames appropriate rules prescribing exceptions to the extended hours of operation permitted under the Foreign Liquor Rules, the Police cannot curtail or restrict the operating hours of hotels contrary to the permission granted under those Rules, in the absence of sufficient grounds justifying such restrictions. The mere possibility of criminal activities cannot, by itself, constitute sufficient justification for imposing restrictions on the extended operating hours permitted under the Rules.

20. In **Ravikumar R. *v*. Sub Inspector of Police, Sakthikulangara and Another** [2016 (5) KHC 734], this Court considered whether a Sub-Inspector of Police could issue an order directing the closure of a hotel after 11:00 p.m. on the ground that anti-social elements frequented the hotel during night hours, thereby potentially causing traffic congestion. This Court held thus:

> "Running of a hotel is not detrimental to the interests of the public. On the other hand, it caters to the needs of the general public. There is no case for the fifth respondent

VERDICTUM.IN

> that the petitioner committed any offence. No crime is registered against him. That anti social elements used to visit the hotel is not a ground to direct the owner of a hotel to close down the hotel after 11 p.m. That offences are being committed in the locality by anti social elements is also not a ground to stop the running of the hotel after 11 p.m. If any offence is committed by any person, it is for the police to investigate and apprehend the accused. The police can also prevent commission of offences. So long as the first respondent has no case that the petitioner has committed any offence or that any conspiracy to commit any offence took place in the hotel premises, he was not justified in preventing the petitioner from running the hotel during permitted hours. Ext. P5 order was passed in violation of the principles of natural justice. On that ground also, Ext. P5 order is unsustainable."

21. The High Court of Madras while considering a similar issue in **S. Gunaraja *v*. The Commissioner of Police, Greater Chennai & Another** [2022 Live Law (Mad) 71], held as follows:

> "28. Ours is a democratic country and every citizen has a right to practise any profession or to carry on any occupation, trade or business as enshrined in Article 19(1)(g) of the Constitution of India. In the present case, the petitioner is carrying on his business by running his eatery shop with proper licence, ofcourse at late hours, which is also permissible in terms of the Notification, dated 05.06.2019 issued by the Labour and Employment Department. While so, under the guise that opening the eatery shop by the petitioner would create law and order problem by anti-social elements, who visit the shop, the second respondent is interfering with the business activity of the petitioner and further, without any authority of law or jurisdiction, has passed the impugned order, directing the petitioner to close his eatery shop by 10.30 p.m. every night, which in the opinion of this Court, would

VERDICTUM.IN

> violate the right guaranteed by the Constitution and nothing but taking away the very livelihood of the petitioner.
>
> 29. It is shame and very deplorable that being the law enforcers and protectors of the people, the police, instead of taking stringent action against the anti-social elements who indulge in illegal activities and create law and order problem, even, if necessary, by arresting them in order to protect the interest of the petitioner, unfortunately, insisting the petitioner to close his eatery shop by 10.30 p.m. If, unexpectedly, any law and order problem arises on any day, in the interest of the petitioner and his customers, the respondent police may direct the petitioner to close the shop on that particular day, but merely based upon apprehension that there may be law and order problem arising, the respondent police cannot interfere and compel the petitioner to close his eatery shop every day by 10.30 p.m. The respondent police, with the aid of their information sources, if receives any information that anti-social elements entered the eatery shop for dining and going to indulge in illegal activities, can immediately act upon and rush to the eatery shop and apprehend those anti social elements and in fact, the opening of the shop would pave way to the respondent police to identify and catch hold of those anti-social elements and proceed against them by taking proper action.
>
> 30. In fact, this Court expects the respondent police to be vigilant and prompt in discharging their duties and ensure that no crimes would take place in the society. While so, in the present case, it is unfortunate to note that the respondent police, instead of extending their helping hand and protecting the interest of the petitioner and ignoring their duties, in a blind-fold manner, insisting him to close the shop, which would show that we are living in a totalitarian regime."

The Police cannot, merely on the basis of an apprehension that a law and order problem may arise, interfere with the petitioner's business and compel the closure of the hotel before the permissible closing

VERDICTUM.IN

time stipulated in Ext. P4. If any offence is committed by any person, it is the responsibility of the police to take stringent action against anti-social elements who indulge in illegal activities, use narcotic substances, or facilitate any other unlawful activities that create law and order problems. To borrow a proverb, "Burn not your house to fright away the mice." According to the Police, the DJ parties are conducted in the licenced premises of the hotel. The hall or premises may be capable of accommodating a specified number of persons. If the congregation of large crowds in connection with DJ parties results in traffic disruption, it is the duty of the Police to regulate and control traffic under Section 61 of the Kerala Police Act, rather than compelling the hotel to close before the permissible closing time. Exts. P5 and P6 issued by the Station House Officer are without jurisdiction. Further, an order issued by the 6th respondent under Section 79 of the Kerala Police Act can remain in force for a period not exceeding fifteen days from the date of its proclamation and cannot be permanent in nature and it is for the Government to extend the period of validity of the notification issued under Section 79 (1).

VERDICTUM.IN

22. In the light of the above discussions, this writ petition is disposed with the following observations and directions:

(i) Exts. P5 to P7 are set aside.

(ii) In the light of Exts. P3 and P4, the petitioner's hotel is entitled to function for an additional three hours after the permissible closing time, i.e., until 3:00 a.m., during the financial year 2026–27, except on the eve of a statutory dry day, when the hotel shall stop operations at midnight.

(iii) Until the Government frames appropriate rules prescribing exceptions to the extended hours of operation permitted under the Foreign Liquor (Amendment) Rules, 2026, the Police cannot curtail or restrict the operating hours of hotels contrary to the permission granted under those Rules, in the absence of sufficient grounds justifying such restrictions.

(iv) Where high-decibel music played at DJ parties or other entertainment events involving sound-producing instruments results in a violation of the restrictions applicable during night-time, except in circumstances expressly exempted under Rule 5(2) of the Noise Pollution Rules, or where the

VERDICTUM.IN

prescribed ambient noise standards for the area are violated, the Police Commissioner, the additional 6th respondent, is empowered to issue preventive directions under Section 77 of the Kerala Police Act or Rule 8 of the Noise Pollution Rules to prohibit, control or regulate the occurrence or continuance of noise pollution, subject to compliance with the procedures contemplated therein.

(v) The mere possibility of criminal activities cannot, by itself, constitute sufficient justification for imposing restrictions under the Kerala Police Act on the extended operating hours of the FL-3 hotel permitted under the Foreign Liquor (Amendment) Rules, 2026.

(vi) If the Police have reason to believe that criminal activities, including use of narcotic substances, are taking place under the guise of DJ parties or other entertainment programmes in hotels, it is the responsibility of the Police to take stringent action in accordance with law to curb the same.

(vii) An order issued under Section 79 of the Kerala Police Act can remain in force for a period not exceeding fifteen days from the date of its proclamation and cannot be permanent

VERDICTUM.IN

in nature and it is for the Government to extend the period of validity of the notification issued under Section 79 (1).

Sd/-

MURALI PURUSHOTHAMAN

JUDGE

YKB

VERDICTUM.IN

APPENDIX OF WP(C) NO. 17410 OF 2026

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE LICENSE ISSUED BY MINISTRY OF TOURISM, GOVERNMENT OF INDIA NUMBERED AS 150720241473 DATED 15.07.2024
Exhibit P2	THE TRUE COPY OF THE FL3 LICENSE RENEWAL CERTIFICATE ISSUED BY THE 3RD RESPONDENT DATED 28.03.2026
Exhibit P3	THE TRUE COPY OF THE GAZETTE NOTIFICATION ISSUED BY THE 1ST RESPONDENT HAVING NUMBER GO(P) NO. 18/2026/TAXES DATED 13.02.2026
Exhibit P4	THE TRUE COPY OF THE ORDER NO. EDOEKM/312/2026-E5 DATED 02.04.2026 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER
Exhibit P5	THE TRUE COPY OF THE NOTICE NO.162/TD/26/KDVA DATED 27.03.2026 ISSUED BY THE 5TH RESPONDENT
Exhibit P6	THE TRUE COPY OF THE NOTICE NO.172/TD/26/KDVA DATED 30.03.2026 ISSUED BY THE 5TH RESPONDENT
Exhibit P7	THE TRUE COPY OF THE NOTICE NUMBER 1735/TD/2026/ECS DATED 28.04.2026 ISSUED BY THE OFFICE OF THE 4TH RESPONDENT
Exhibit P8	THE TRUE COPY OF THE FIR IN CRIME NO. 166/2026 DATED 30.04.2026

RESPONDENT ANNEXURES

ANNEXURE R6(a)	True copy of FIR IN CRIME No.120/2026 of Kadavanthra Police Station
ANNEXURE R6(c)	True copy of FIR IN CRIME No.138/2026 of Kadavanthra Police Station
ANNEXURE R6(b)	True copy of the FIR in Crime No.134/2026 of Kadavanthra Police Station
ANNEXURE R6(d)	True Copy of the minutes of the meeting dated 28.04.2026
ANNEXURE R6(e)	True Copy of the order issued by the Additional sixth Respondent dated

VERDICTUM.IN

28.04.2026

ANNEXURE R6(f)	True Copy of the order issued by the Additional Sixth Respondent dated 16.05.2026
ANNEXURE R6(g)	True copy of the minutes of the meeting dated 19.05.2026
ANNEXURE R6(h)	LIst of DJ Cases registered by Kochi city police