



CrI.O.P.(MD)No.10654 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19/06/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CrI.OP(MD)No.10654 of 2023

and

CrI.MP(MD)No.8456 of 2023

Sermugakani : Petitioner/Sole Accused

Vs.

1.State represented by
The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.
(In Crime No.82 of 2021) : R1/Complainant

2.Ku.Vi.Ravindran,
Flying Squad No.III,
Special Thasildar,
SPICOT,
Virudhunagar. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records of FIR in Crime No.82 of 2021 pending on the file of the 1st respondent and to quash the same as illegal and to pass such further order or other suitable orders.

For Petitioner : Mr.A.Balaji

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the FIR in Crime No.82 of 2021 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

On 24/03/2021 at about 11.15 pm, the de-facto complainant along with the police team were on routine vehicle check up. At that time, they found a two wheeler bearing registration No.TN-63-P-9769. On suspicion, they intercepted the vehicle. On search, they found Calendars-100 Nos, Batches-6 Nos, Stickers-108 Nos and Books-4 Nos. No proper permission was granted to the above said person for taking the above said articles from the Election Returning Officer. On that account, a case in Crime No.82 of 2021 was registered for the offences under sections 4AA(1)(a) and 4AA(4) of the Open Places (Prevention of Disfigurement) Act.

3. Seeking quashment of the same, this petition has been filed on the ground that the offences mentioned in the FIR does not attract to the present factual situation.



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4. Heard both sides.

6. Section 4AA of the Open Places (Prevention of Disfigurement) Act, 1959, reads as follows:-

"4-AA. Prohibition of pasting of posters and fixing of thatty boards, etc., on Motor Vehicles- (1) Notwithstanding anything contained in sections, 3, 3-A or 4 or 4-A or any other provision of this Act, or in any law for the time being in force, no person shall-

(a) affix to, or inscribe or exhibit on, any motor vehicle, any poster or any effigy, or any bill, notice, document, paper or other thing containing any words, signs or visible representation; or

(b) put up or fix any thatty board or board supported on, or attached to, any post, pole, standard, frame work or other support wholly or in any part upon or over any motor vehicle;

Provided that nothing contained in this sub-section shall apply to any poster or advertisement or thatty board of the State Government on any motor vehicle.

(2) Notwithstanding anything contained in sub-section (1), any officer authorised



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by the Chairman of the State Transport Undertaking concerned, may grant permission to any person to put up or fix any thatty board on any motor vehicle, subject to such conditions and for such period as may be specified n such permission:

Provided that the officer so authorised may refuse to grant permission, if he considers that such display of thatty boards may lead to disfigurement or damage or deteriorate the effective use of the motor cycle.

(3)Any person aggrieved by any decision of the officer referred to in sub-section (2) in refusing to grant permission, may appeal to the State Government and the decision of the State Government, on such appeal, shall be final.

(4)Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment of either description, for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

(5)Any offence punishable under sub-section (4) may be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)



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shall, as far as may be, apply to such trial.

7.But here the allegation is that against the election protocol, the accused person found carrying above said Calendars, Batches, Stickers and Books. How the above said possession and transportation of the above things will attract the offence as defined under sections 4AA(1)(a) and 4AA(4) of the Open Places (Prevention of Disfigurement) Act, is not understandable. Section 4AA(1a) of the Act will attract only if any posters, bill, notice, document, board or other things containing any words visible representation or found fixed on any motor cycle.

8.Here, only the possession has been alleged. So due to misconception of law and facts, it appears that the above said FIR has been registered. There is no bar or prohibition for carrying the Calendars and posters through vehicle, for which no permission from the Election Returning Officer is required. So, these things were not prohibited articles or goods, which requires permission from the Election Returning Officer for transporting or carrying. So the ingredients of the offences alleged are not attracted.



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9. Apart from that, it is also contended that the offence is of the year 2021. Even though, after lapse of the limitation period, final report has not been filed. The maximum period of punishment prescribed is one year for the offences mentioned in the FIR. Since the investigation has not been completed and final report was not filed within a period of limitation, it is also barred by section 468 Cr.P.C. On that sole ground, the entire prosecution is bad in law.

10. In the result, this criminal original petition is **allowed**. The FIR in Crime No.82 of 2021 on the file of the 1st respondent is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

19/06/2023

Index:Yes/No
Internet:Yes/No

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To,

1. The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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