

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.27071 of 2015
and
M.P.No.1 of 2015

M.Maaravarman ... Petitioner/ Accused

Vs.,

1.State represented by
Inspector of Police,
Kannankurichi Police Station,
Salem, Salem District.
(Crime No.314 of 2015).

2.A.Raja ... Respondents/ Complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in FIR Crime No.314 of 2015 for the charges under Section 3 of the Tamil Nadu Open Places Prevention of Disfigurement Act, 1959, on the file of the Inspector of Police, Kannankurichi Police Station and to quash the same as illegal.

For Petitioners:Mr.NGR.Prasad for M/s. R. Sankara Subbu

For Respondents : Mr.C.Emalias, APP (For R1)
Mr.V.Raghavachari (For R2)

ORDER

This petition has been filed by the petitioner praying to quash the First Information Report in Crime No.314 of 2015 pending on the file of the 1st respondent-Police.

2.The petitioner herein is working as Assistant Professor in Government Arts College, Salem. He is a Treasurer of Tamil Nadu Government College Teachers Association. The 2nd respondent herein lodged a complaint has against the petitioner herein stating that he is a retired Professor and his wife Dhanalakshmi is working as the Principal of Government Arts College, Salem;

that certain disputes arose between the petitioner herein/accused and the said Dhanalakshmi, with regard to administration of the said College. While so, on 20.10.2015 at about 01.30 hours, the petitioner herein/accused along with others pasted certain posters, which were against the wife of the 2nd respondent, on the compound walls of the houses of the 2nd respondent and his neighbours. Hence, the complaint was lodged by the 2nd respondent and the same has been registered as Crime No.314 of 2015 under Section 3 of the Tamil Nadu Open Places Prevention of Disfigurement Act, 1959. Now, the petitioner has come forward with the present petition seeking to quash the complaint.

3.The learned counsel for the petitioner, by producing the copy of the poster, submitted that in the said poster, name of the petitioner/accused does not find a place; therefore, absolutely there is no material to connect the petitioner herein with the alleged offence. Further, by relying upon a decision of this Court reported in (2011) 3 MLJ (Cr1) 37 [Venkatesh Vs. State] the learned counsel for the petitioner submitted that in order to bring an offence under Section 3 of the said Act, the objectionable advertisement must satisfy any one of the conditions found in Section 2(b) of the Act; whereas in the present case, the contents of the poster will not come under the conditions found in Section 2(b) of the Act. Thus, the learned counsel for the petitioner sought for quashing the complaint.

4.Per contra, the learned Additional Public Prosecutor, by filing a detailed counter, contended that the petitioner/accused is running an Association headed by him viz., "சாதிவ் அமைப்பு," in which many Professors are members. During the investigation conducted by the 1st respondent-Police, it was found that after taking charge as Principal of Govt. Arts College, the complainant's wife has raised the height of the compound wall of the college premises, after getting proper permission from the Government, in order to prevent the entry of general public in the college premises. But, the petitioner herein, who is running the said association, opposed the construction of the compound wall, which resulted in enmity between the petitioner and the complainant's wife. The investigation further revealed that the petitioner herein printed the posters, which were pasted on the compound walls of the houses of the complainant's house and his neighbours without getting any permission. Now, the investigation is under progress and some more witnesses have to be examined. Only after completion of investigation, the 1st respondent-police can file final report. Thus, the learned Additional Public Prosecutor submitted that the question of quashing the complaint does not arise at this stage, and sought for dismissal of the petition.

5.The learned counsel for the 2nd respondent/defacto-complainant submitted that a reading of the contents in the poster would show that it would fall within the conditions found in Section 2(b) of the Act. Further more, the investigation is under progress and that since the petitioner's name does not find a place in the Poster, it cannot be said that no offence has been made out against the petitioner.

6.Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

7.It is the main contention of the learned counsel for the petitioner that his name was not found in the poster; therefore, absolutely there is no material to connect the petitioner herein with the alleged offence. The said submission made by the learned counsel for the petitioner cannot be accepted because in the complaint, it has been stated that when the 2nd respondent came out of his house, he found the petitioners and others pasting the posters on the compound walls of the 2nd respondent and his neighbours. Further submission made by the learned counsel for the petitioner that the contents of the poster will not fall within the conditions mentioned in Section 2(b) of the Act, also cannot be accepted at this stage. The investigation has not been completed so far. It is well settled legal principle that the scope of quashing the First Information Report is very narrow. The present petition is pre-mature in nature. I do not find any merit in the petition to quash the First Information Report at this stage. Hence, the petition is liable to be dismissed.

In fine, the criminal original petition is dismissed. Consequently, connected Miscellaneous Petition is closed. However, the petitioner is at liberty to approach this Court after filing the final report.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ssv

To,

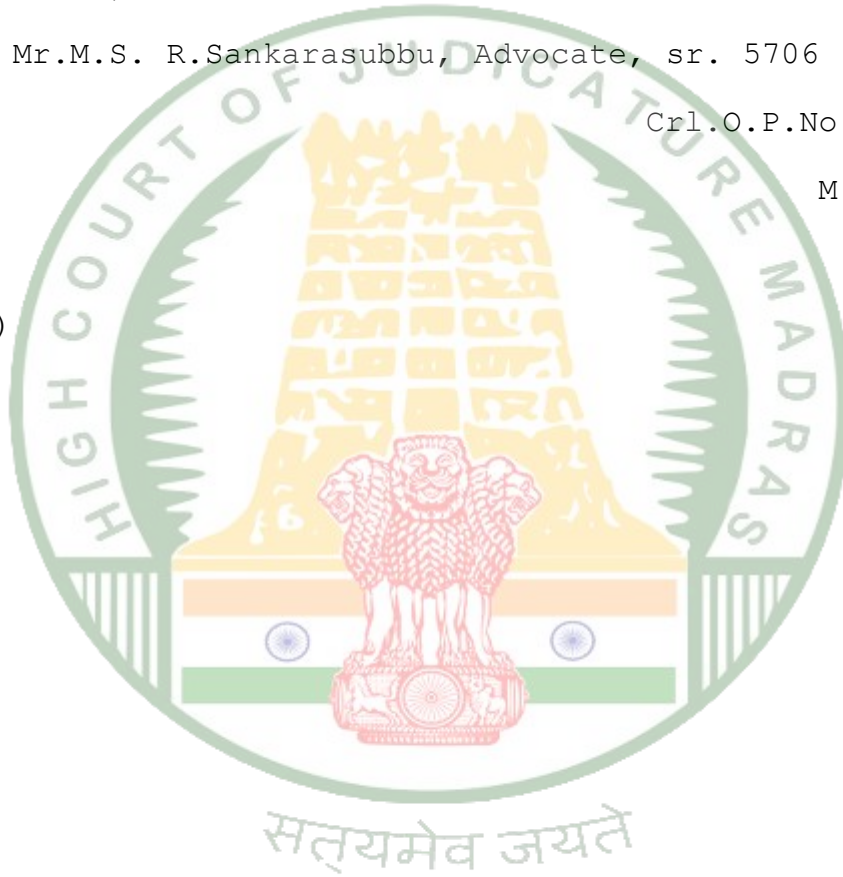
1.The Inspector of Police,
Kannankurichi Police Station,
Salem, Salem District.

2.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.M.S. R.Sankarasubbu, Advocate, sr. 5706

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RSI (CO)
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