



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.19662 of 2018

and

Crl.M.P.(MD) Nos.8986 and 8987 of 2018

K.K.S.S.R.Ramachandran

... Petitioner/Accused No.1

Vs.

1. The State rep. by
The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.
(Crime No.69 of 2014)

... 1st Respondent/Complainant

2. A.Pauldurai

... 2nd Respondent/De facto
Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in S.T.C.No.1570 of 2014 pending before the learned Judicial Magistrate No.II, Sattur and quash the same in respect of petitioner.

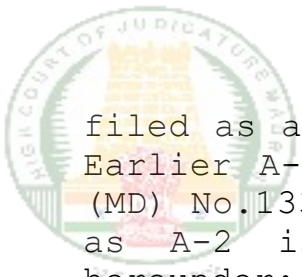
For Petitioner : Mr.G.Mariappan
For R-1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side).

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C.No.1570 of 2014 pending before the learned Judicial Magistrate No.II, Sattur.

2. Heard learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3.It is seen from the records that the final report has been filed by the respondent police and the same has been taken on file by the learned Judicial Magistrate No.II, Sattur for an offence under Section 4 of Tamilnadu Open Places Act, 1956 (Prevention of Disfigurement) Act, 1959. In this case, the final report was



filed as against two persons. The petitioner was arrayed as A-1. Earlier A-2 filed a quash petition before this Court in CrI.O.P. (MD) No.13337 of 2014. This Court quashed the proceedings insofar as A-2 is concerned. The relevant portions are extracted hereunder:-

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8. Insofar as the offence under Section 4 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, it reads as follows:-

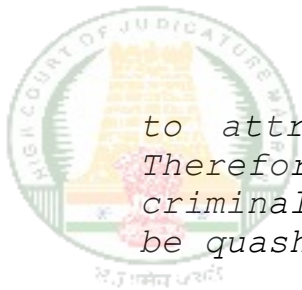
4. Penalty for unauthorized disfigurement by advertisement:

Subject to the provisions of Section 4-A whoever affixes to, or inscribes or exhibits on, any place open to public view any advertisement, without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both.

(2) the Court while convicting the offender under sub-section(1) may or order, also, direct the offender to pay by way of compensation to the owner or occupier or person in management of the building or premises, of such amount not exceeding five hundred rupees on the whole as may be reasonably incurred by him in erasing and colour washing the portions of the building or premises which have been disfigured by the act of the offender."

9. The reading of the above section would clearly show that, whoever indulges any such action will be liable for imprisonment for a term, which may extend to three years or with fine which may extend to two hundred rupees, or with both. Admittedly, there is allegation to attract this offence as against the petitioner that he involved in the alleged activity warranting the penalty for the said offence. Thus, it construed that only because of the reason that the petitioner contested in the parliamentary election as Dmk party candidate in Virudhunagar Constituency, the present case has been foisted as against the petitioner. Therefore, in the absence of any averment implicating the petitioner, the entire proceedings as against the petitioner cannot be sustained.

10. It is also seen from the charges that there is no mentioning of exact place of occurrence and whether the place is a place open to public as defined under the Act has also not been mentioned in the charge sheet. Therefore, even as per the case of prosecution, no averments



to attract the said charges as against the petitioner. Therefore, this Court is of the view that the entire criminal proceedings as against the petitioner is liable to be quashed.

4. The findings given by this Court insofar as A-2 is concerned is also equally applicable to the petitioner. Therefore, the prosecution has not made out the case for the offence under Section 4 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, against this petitioner.

5. In the result, the proceedings in S.T.C.No.1570 of 2014, before the learned Judicial Magistrate No.II, Sattur is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Judicial Magistrate No.II,
Sattur.
2. The Chief Judicial Magistrate,
Srivilliputhur at Virudhunagar.
3. The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.G.MARIAPPAN, ADVOCATE IN SR No. 93584

CP
TE/RSK/SAR-2 : 23/11/2018 : 3P/6C

Cr1.O.P.(MD)No.19662 of 2018 and
Cr1.M.P.(MD) Nos.8986 and 8987 of 2018
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