



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) .No.16543 of 2019

and

Crl.M.P. (MD) Nos.9814 and 9816 of 2019

T.V.Ramesh

..Petitioner/Accused No.29

Vs.

1. The Inspector of Police
B-3, Theppakulam Police Station
Madurai

... Respondent/Complainant

2. Muneeswaran
Village Administrative Officer
Iravathanallur Village
Madurai South Taluk

..Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned final report of the 1st respondent herein dated 06.05.2014 in STC No. 376 of 2014 on the file of the JM - I, Madurai, quash the same as against this petitioner and allow this Criminal Original Petition.

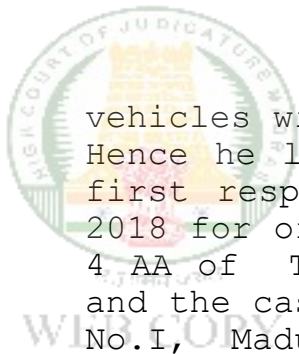
For Petitioner : Mr.V.Janairamulu

For Respondent : Mr.K.Suyambulinga Bharathi
No.1 Government Advocate(Crl.Side)

O R D E R

This quash petition is filed to quash the criminal proceedings in STC No.376 of 2014 on the file of the learned Judicial Magistrate No.I, Madurai thereby having been taken cognizance for the offences under Sections 341,143 and 188 of IPC and Section 4 AA of Tamil Nadu Open places (prevention of disfigurement) Act as against the petitioner.

2.The case of the prosecution is that the petitioner herein along with others violated the election rules and the promulgation order of the Commissioner, Madurai City by taking procession in



vehicles with their party flag without getting any prior permission. Hence he lodged a complaint before the first respondent police and first respondent police registered a case in Crime No. 309 of 2018 for offences under Sections 341, 143 and 188 of IPC and Section 4 AA of Tamil Nadu Open places (prevention of disfigurement) Act and the case was taken cognizance by the learned Judicial Magistrate No.I, Madurai in S.T.C.No.376 of 2014. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offences as alleged by the prosecution. Due to political enmity, a false case has been foisted. The petitioner has not violated any rules and model code of conduct relating to election. He would further contend that the charge against the petitioner was not attracted, since there is no allegation against the petitioner that he has violated the election rules/model code of conduct. Further, he would contend that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioners, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioner unnecessarily would not have put them an ordeal trial. Therefore, he prayed for quashment of the criminal proceedings.

4.Per contra, the learned Government Advocate(Crl.Side) would submit that there are specific allegations as against the petitioner to proceed with the trial. Further, he would submit that the petitioner is a habitual offender by committing this kind of crimes. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) appearing for the respondents/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioner is concerned, the first respondent levelled the charge under Sections 341, 143 and 188 of IPC and Section 4 AA of Tamil Nadu Open places (prevention of disfigurement) Act as against the petitioner. It is seen from the charge that petitioner herein along with others violated the election rules and the promulgation order of the Commissioner, Madurai City by taking procession in vehicles with their party flag without getting any prior permission. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charge against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial. Section 188 reads as follows:

"188. Disobedience to order duly promulgated by public servant — Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to



promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes to tender to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

7.Considering the above, this Court finds that for the simple charge, the petitioner cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioner.

8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in STC No. 376 of 2014 on the file of the learned Judicial Magistrate No.I, Madurai, is quashed as against the petitioner herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. Judicial Magistrate No.I, Madurai

2. The Inspector of Police

B-3, Theppakulam Police Station

Madurai

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.JANAKIRAMULU, Advocate (SR-98495[F] dated 15/11/2019)

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