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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2019
CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) .No.7075 of 2017
and
CRL.M.P. (MD) .Nos.4806 and 4807 of 2017

Bhuvanendran : Petitioner / Sole Accused

Vs.

1. The Sub Inspector of Police,
Sikkal Police Station,
Ramanathapuram District.
(FIR.No.41 of 2016)

2. Pasupathi : Respondents

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code to call for the records pertaining to S.T.C.No.11 of 2019, on the file of the Judicial Magistrate Court, Kadaladi, Ramanathapuram District and quash the same.

(Prayer amended as per the order of this Court dated 01.11.2019 made in CrI.M.P.(MD).No.9178 of 2019 in CrI.O.P. (MD).No.7075 of 2017)

For Petitioner : Mr.R.Murugappan

For R-1 : Mr.M.Chandrasekaran
Additional Public Prosecutor

For R-2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.11 of 2019, on the file of the Judicial Magistrate Court, Kadaladi, Ramanathapuram District.

2. Based on the complaint given by the second respondent, an F.I.R came to be registered before the first respondent Police in Crime No.41 of 2016, for the offences under Sections 4 A (1a) and 4 A (1b) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. After completion of the investigation, the final report



came to be filed before the learned Judicial Magistrate, Mudukulathur, Ramanathapuram District and the same was taken on file in S.T.C.No.1503 of 2016. Subsequently, it has been transferred to the file of the learned Judicial Magistrate, Kadaladi, Ramanathapuram District and re-numbered as S.T.C.No.11 of 2019.

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3. The learned counsel appearing for the petitioner submitted that it is the case of the prosecution that when the second respondent along with the other Constables were patrolling near the Bus-stop and they saw a wall poster affixed containing the picture of the Prime Minister of India and seeking for votes for a particular political party. On enquiry, it came to be known that it is only the petitioner, who had affixed the wall poster. The learned counsel submitted that the respondent Police came to this conclusion without any materials and based on mere surmises. Therefore, the learned counsel submitted that the entire proceedings is an abuse of process of Court and requires interference of this Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that the wall poster has been affixed without any permission and the same is a cognizable offence under Sections 4 A (1a) and 4 A (1b) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. The learned counsel further submitted that on enquiry, the respondent Police came to know that it was only the petitioner, who had affixed the wall poster and therefore, there are no grounds to interfere with the proceedings at this stage.

5. A careful reading of the final report and the statements recorded under Section 161 (3) of the Code of Criminal Procedure shows that there are no materials to implicate the present petitioner as an accused. The petitioner has made as an accused without any basis and merely based on some hearsay evidence. The entire proceedings against the petitioner is an abuse of process of Court and no offence has been made out against the petitioner.

6. In view of the above, the proceedings in S.T.C.No.11 of 2019, on the file of the learned Judicial Magistrate, Kadaladi, Ramanathapuram District, is hereby quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



To

1. The Judicial Magistrate Court,
Kadaladi, Ramanathapuram District.

2. The Chief Judicial Magistrate, Ramanathapuram.

3. The Sub Inspector of Police, Sikkal Police Station,
Ramanathapuram District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-95681[F] dated 04/11/2019)

Order made in
CRL.O.P. (MD) .No.7075 of 2017
Dated: **01.11.2019**

JMN(15.11.2019) 3P : 6C