



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2020

CORAM:

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THE HONOURABLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD).No.2300 of 2020
and
Crl.M.P.(MD) No.1183 of 2020

Jeyavel

..Petitioner/Sole Accused

Vs.

1.The State rep. by,
The Inspector of Police,
Thallakulam Police Station,
Madurai District.

(Crime No.795 of 2016) ..1st Respondent/Complainant

2.Leelavathi

..2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of Charge Sheet in S.T.C.No.564 of 2016 before the learned Judicial Magistrate No.II, Madurai and quash the same.

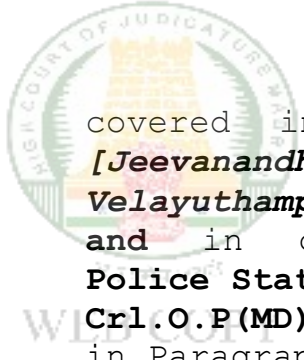
For Petitioner : Mr.J.Peer Mohammed

For 1stRespondent : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This quash petition is filed to quash the criminal proceedings in S.T.C.No.564 of 2016 before the learned Judicial Magistrate No.II, Madurai, thereby having been taken cognizance for the offences under Sections 188 of IPC and Section 4 A (1a) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, as against the petitioner.

2.The learned counsel appearing for the petitioner would submit that the facts of the case are exactly similar to the case



covered in the decision reported in **2018 2 LW (Cr1) 606 [Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018** and in case of **Sri Raja vs Inspector of Police, Sivakasi Town Police Station Virudhunagar District and other in batch of cases in Cr1.O.P(MD) No.7922 of 2019 dated 30.08.2019** and this Court held in Paragraph-38, as follows :-

38. The petitioner/sole Accused stood charged for the offences under Sections 171(F), 188 of the Indian Penal Code and Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. The allegation against the petitioner is that, when the Election Code of Conduct was in force, the petitioner has hoisted his party flag in his house without obtaining permission from the Election Commission. The allegation seems to be very strange. The petitioner only hoisted a party flag, in which he belongs, in his own house. It is not known how it violates the provision of Sections 171(F), 188 of the Indian Penal Code and Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. Absolutely, there is no material available on record to show that, an order has been promulgated by the Election Commission prohibiting hoisting any party flag in their own house. In the above circumstances, prima facie, none of the offences is made out against the petitioner. The criminal complaint has been filed in total abuse of process of law. Hence, it is liable to be quashed. Accordingly, the criminal proceedings initiated against the petitioner in S.T.C.No.400 of 2019 on the file of the learned Judicial Magistrate No.1, Sivakasi, is quashed.

3. The learned Additional Public Prosecutor appearing for the first respondent police would submit that the facts of the case are similar to the facts covered under the Judgment referred above.

4. Heard both sides and perused the materials on record.

5. The facts of this case is similar to the facts covered by the Judgment of this Court reported in **2018 2 LW (Cr1) 606 [Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018** and in case of **Sri Raja vs Inspector of Police, Sivakasi Town Police Station Virudhunagar District and other in batch of cases in Cr1.O.P(MD) No.7922 of 2019 dated 30.08.2019**. Considering the facts and submissions, the proceedings in S.T.C.No.564 of 2016 on the file of the learned Judicial Magistrate No.II, Madurai, is



hereby quashed and the Criminal Original Petition is allowed.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2020

Sub Assistant Registrar(CS)

vsg

To:

- 1.The Judicial Magistrate No.II,
Madurai.
- 2.The Inspector of Police,
Thallakulam Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.PEERMOHAMED, Advocate (SR-5561[F] dated 11/02/2020)

Cr1.O.P.(MD).No.2300 of 2020

and

Cr1.M.P.(MD) No.1183 of 2020

KK/02.03.2020/3P-5C

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