



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2020

CORAM:

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

Crl.O.P.(MD)No.18806 of 2019

and

Crl.M.P.(MD).No.11044 of 2019

WEB COPY

Gnanathiraviyam

... Petitioner

Vs

1.The Inspector of Police,
Valliyoore Police Station,
Tirunelveli District,
Tirunelveli.
(Crime No.396 of 2018)

2.Siva Subramaniyan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the First Information Report in Crime No.396 of 2018 dated 27.09.2018 on the file of the respondent No.1 for offence under Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 and quash the same.

For Petitioner : Mr.T.Lajapathi Roy

For 1st Respondent : Mr.S.Chandrasekar,

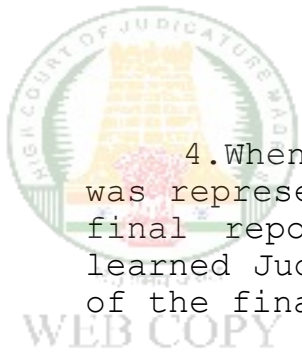
Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in Crime No.396 of 2018 dated 27.09.2018 on the file of the respondent No.1 for offence under Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

2.The case of the prosecution is that on 27.09.2018, the defacto complainant, who is a Village Administrative Officer lodged a complaint before the first respondent police that the petitioner and the Accused No.1 had conducted Kabadi tournament in their jurisdiction and they praised the DMK parties and affixed a flex by their party oriented without seeking permission in violation of the procedure and thereby, on the complaint given by the defacto complainant, the First Information Report has been registered for the offence under Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

3.The learned counsel appearing for the petitioner would submit that as per Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, the accused 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 and that despite the case being registered on 27.09.2018, till date the final report has not been filed and thereby, further proceedings in Crime No.396 of 2018 is barred under Section 468 Cr.P.C.



4. When the matter was taken up for hearing on 16.12.2019, it was represented by the learned Additional Public Prosecutor that the final report has been filed as early as on 06.10.2018 and the learned Judicial Magistrate, Valliyoor, has not taken the cognizance of the final report.

5. Per contra, the learned counsel appearing for the petitioner submitted that on 02.12.2019, the petitioner had filed a copy application before the Court below and the same has been returned stating that final report has not been filed. Therefore, this Court directed the Registry to call for report from the learned Judicial Magistrate, Valliyoor to find out whether final report has been filed in Crime No.396 of 2018 on the file of the first respondent police or not.

6. When the matter is taken up for hearing today, a report has been received from the learned Judicial Magistrate, Valliyoor, dated 04.01.2020, wherein it has been stated that the final report has not been filed till date.

7. The Report of the learned Judicial Magistrate, Valliyoor, dated 04.01.2020 is taken on record.

8. Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 is extracted hereunder;

"4(1).Penalty for unauthorised 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."

9. Section 468 of the Code of Criminal Procedure, 1973, is extracted hereunder:

"468.Bar to taking cognizance after lapse of the period of limitation.

(1)Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-Sectin (2), after the expiry of the period of limitation.

(2)The period of limitation shall be

(a) six months, if the offence is punishable with fine only.

(b)One year, if the offence is punishable with

