



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.12.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.22514 of 2017

&

Crl.M.P.Nos.13156 & 15192 of 2017

N.Vijayasundaram

...Petitioner

Vs

The State represented by
The Inspector of Police,
Chidambaram Town Police Station,
Cuddalore District.
(Crime No.215 of 2017)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to S.T.C.No.147 of 2017 on the file of the Judicial Magistrate-II, Chidambaram and quash the same insofar as the petitioner is concerned. (STC Number amended as per order dated 06.09.2018 in Crl.M.P.Nos.11801 of 2018 in Crl.O.P.No.22514 of 2017.

For Petitioner : Mr.R.Bharath Kumar

For Respondent : Mr.R.Kishore Kumar,
Government Advocate (Criminal Side)

O R D E R

This petition has been filed to quash the charge sheet in S.T.C. No.147 of 2017 on the file of the Judicial Magistrate-II, Chidambaram filed against the petitioner for the alleged offence under Section 4A(1b) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

2. The charge against the petitioner, who is arrayed as A.1 is that, this petitioner along with other accused without permission from the Government, had fixed the banners for welcoming political leader, thereby committed an offence



punishable under Section 4A(1b) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

3. The learned counsel for the petitioner mainly contended that the petitioner applied for permission and also paid necessary fees to the municipality and to substantiate, he has also filed a copy of the application seeking permission and also challan to show the payment to the municipalities. It is his contention that as per Section 4 of the Act, only the local authority is competent to issue permission. Accordingly, the petitioner has paid necessary charges, as demanded by the local authority to fix the banner. In this view of the matter, the prosecution cannot be maintainable as against the petitioner.

4. Heard both sides.

5. This Court is of the view that though the documents are filed to show that there was legal permission, this Court cannot go into the validity of those documents at this stage. It is for the trial Court to take into consideration of these documents and decide the matter. If the permission was already obtained, then, continuing the prosecution against the petitioner is nothing but mere abuse of process of law. At this stage, the learned counsel for the petitioner sought indulgence of this Court to dispense with the personal appearance of the petitioner.

5. Accordingly, this Criminal Original Petition is dismissed with liberty to the petitioner to produce the documents before trial Court. The trial Court shall dispose of the matter within a period of three (3) months from the date of receipt of copy of this order. In view of the submissions made by the learned counsel for the petitioner, the personal appearance of the petitioner is dispensed with, except for receiving copies, for answering the charges, for questioning under section 313 of Cr.P.C. and any other dates fixed by the trial Court. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssd / kbs



To

1. The Judicial Magistrate-II,
Chidambaram.
2. The Inspector of Police,
Chidambaram Town Police Station,
Cuddalore District.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.65675

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SSV(CO)
SU(21/12/2021)