



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CrI.O.P.No.27356 of 2017

and

CrI.M.P.Nos.15671 & 15672 of 2017

R.Senthil Murugan

...Petitioner

Vs.

The State represented by
Inspector of Police (Law and Order)
D5, St.Marina Police Station,
Mylapore,
Chennai - 600 004.

...Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.8067 of 2017 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai and quash the same, insofar as the charges (188, 353, 506(i) IPC and 4A(1b) of TNOPPD Act) relating to the petitioner is concerned.

For Petitioner : Mr.T.Sivagnanasambandan

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

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.8067 of 2017 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai, filed against the petitioner for the offences under Sections 188, 353, 506(i) IPC and 4A(1b) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 ("TNOPPD Act" for brevity).

2.The crux of the prosecution charges is that, on 26.07.2017 at about 11.45 a.m., the accused, without obtaining any permission, was illegally affixing a banner on the wall of the DGP's Office at Mylapore, Chennai. When the same was questioned by the Sub-Inspector of Police, the accused threatened him and prevented him from removing the banner and also caused criminal intimidation, thereby, the accused has committed the aforesaid offences.



3.It is the contention of the learned counsel for the petitioner that the entire prosecution is a motivated one and no charges are made out as against the petitioner herein. Further, the learned counsel contended that the complainant and the witnesses are Police officials and therefore, the allegation that the accused threatened and prevented the Police officials from removing the banner, is not made out. He further submitted that no offence under TNOPPD is made out as against the petitioner and therefore, prayed for quashment of the entire proceedings.

4.Heard the learned counsel on either side and perused the entire materials available on record.

5.On a perusal of the materials, it is seen that the crux of the allegations is that the accused was fixing a banner on 26.07.2017 without obtaining any permission from any authority and when the same was questioned by the Police officials, the accused has allegedly threatened them. On a perusal of the entire final report, this Court is of the view that, no offence under Sections 353 and 506(i) IPC is made out. Mere empty threat will not constitute the offence of criminal intimidation under Section 506(i) IPC. With regard to the offence under Section 188 IPC, it is not the case of the prosecution that a promulgation order was in force at the relevant point of time. Further, to prosecute the offence under Section 188 IPC, complaint-procedure has to be followed and without a complaint being filed by the concerned authority, the Court cannot take cognizance of the offence under Section 188 IPC. Therefore, this Court is of the view that, continuing the proceedings under Section 188 IPC is also not sustainable.

6.In fine, this Court is inclined to quash the criminal proceedings insofar as the offences under Sections 353, 506(i) and 188 IPC are concerned. However, as far as the offence under Section 4A(1b) of TNOPPD Act is concerned, the accused has to face the trial and establish his defence before the trial Court.

7.Accordingly, this Criminal Original Petition is partly allowed and the final report qua Sections 353, 506(i) and 188 IPC alone is quashed and the proceedings shall continue qua Section 4A(1b) of TNOPPD Act. Consequently, connected miscellaneous petitions are closed.

8.The trial Court is directed to expedite the trial and decide the case on its own merits, for the offence under Section 4A(1b) of TNOPPD Act, and dispose the matter as expeditiously as possible.

9.At this juncture, the learned counsel appearing for the



petitioner seeks indulgence of this Court to grant an order dispensing with the personal appearance of the petitioner. Accordingly, the personal appearance of the petitioner before the trial Court is dispensed with, except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C., passing of judgment, or on any other date as may be required by the trial Court.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The XIII Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police (Law and Order)
D5, St.Marina Police Station,
Mylapore, Chennai - 600 004.
3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.Sivagnanasambandan, Advocate, S.R.No.65758

Cr1.O.P.No.27356 of 2017

MG(CO)
RGA(28/12/2021)