



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.11.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.3687 of 2019
and
Crl.MP(MD)No.2144 of 2019

M.C.Shanmugaiah

: Petitioner/Sole Accused

Vs.

The State
Rep. by Sub Inspector of Police,
Puthiamputhur Police Station,
Thoothukudi District.

: Respondent/Compliant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for records in connection with the impugned charge sheet in STC No.665 of 2015 on the file of the Judicial Magistrate No.1, Thoothukudi and quash the same.

For Petitioner : Mr.G.Thalaimutharasj
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

O R D E R

This petition has been filed by the petitioner to call for records in connection with the impugned charge sheet in STC No.665 of 2015 on the file of the Judicial Magistrate No.1, Thoothukudi and quash the same.

2.It is the case of the prosecution that on 14.06.2015 at about 6.00 pm, the petitioner put up a flex board in a public place without proper permission from the authorities. So he is punishable under section 3(A) and 4(a)(1)(b) r/w 4(B) of Tamil Nadu Open Place Prevention of Disfigurement Act, 1959. Based upon the complaint given by the respondent herein, *suo motu* FIR has been registered in Crime No.109 of 2015 for the offence under section 4(a) of Tamil Nadu Open Place Prevention of Disfigurement Act, which was taken cognizance in STC No.665 of 2015 by the Judicial Magistrate No.1, Thoothukudi.

3.Seeking quashment of the above said final report, this petition has been filed by the petitioner mainly on the ground that the petitioner has put up the flex board only making and inviting the political functionaries to the function that has been organised



by the party functionaries and that was not objectionable posters or flex board, so the above said offences are not attracted.

4. Heard both sides.

5. It is a simple matter of putting up flex board and pasting of posters in the public place without proper permission from the authorities in contravention of sections 3(A) and 4(A)(1)(B) r/w 4 (B) of Tamil Nadu Open Place Prevention of Disfigurement Act, 1959.

6. No doubt, putting of a flex board in the public place will attract the above said offences. Even though the learned counsel appearing for the petitioner relied upon the decision in the case of **Venkatesh Vs. State rep. By Inspector of Police, Vikravandi Police Station, Villupuram District (Crl.OP(MD)No.23182 of 2010), dated 03.03.2011**). The facts are clearly distinguishable. In that petition, the question was whether the word, that has been used in the particular poster was objectionable or not. On going through the word that has been mentioned in the poster, the Court found that it is not an objectionable in nature as defined under the provisions of the Act namely section 4(B) of the Tamil Nadu Open Place Prevention of Disfigurement Act. In this matter, the poster has been pasted by contemning the policy and demanding action of the Government. Here the issue involved is entirely different.

7. As I mentioned earlier, putting up a flex board without any permission or prior permission *per se* is an offence. Here no permission was obtained by the petitioner. So he cannot argue the matter that this will not attract the offence under section 4(B) of the Tamil Nadu Open Place Prevention of Disfigurement Act. But however, in the final report, a bald statement has been made without mentioning the place where flex board has been put up. It has been simply mentioned that it has been put up in a public place by making disturbance to the traffic and public. In the first information report also, it has been mentioned that flex board has been put up in the Sengunthar Thirumana Mandapam. So it is seen that it has been put up only in the private building. Whether proper permission has been obtained from the concerned private owner or not, no materials have been collected during the course of investigation. The owner of the private property has not been examined and his statement was also not recorded. So where the flex board was fixed is not clear. Whether it has been put up in the public place as mentioned in the final report or in the Thirumana Mandapam, where meeting took place, is also not clear on record. So for the above said reasons, I am of the considered view that it is a fittest case to quash the criminal case.

8. In view of the above, this criminal original petition stands **allowed**. The impugned charge sheet in STC No.665 of 2015 on the file of the Judicial Magistrate No.1, Thoothukudi, is hereby quashed.



Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

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/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

- 1.TheJudicial Magistrate No.1,
Thoothukudi.
- 2.The Sub Inspector of Police,
Puthiamputhur Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai..

Cr1.OP(MD)No.3687 of 2019
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TSK(CO)
KB(08.12.2021) 3P 4C