



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2022

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.O.P.NO.12188 OF 2022

AND

CRL.M.P.NOS.6840 & 6841 OF 2022

1. Kathiravan alias Raja
2. Tyson
3. P.Sugumar

... Petitioners

Vs.

1. Inspector of Police,
N3, Muthalaipet Police Station,
Chennai - 600 001.
2. G.Saravanan
Assistant Engineer,
18th Harbor Constituency,
Additional Flying Squad Team - III,
Central Parliament Constituency.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to call for the records and quash the C.C.No. 1199 of 2021 on the file of 16th Metropolitan Magistrate Court, George Town.

For Petitioners	:	Mr.S.Santhosh
For Respondents	:	Mr.Leonard Arul Joseph Selvam Government Advocate (Crl. Side) For R1

O R D E R

This Criminal Original Petition is filed challenging the police report filed in C.C.No.1199 of 2021, registered for the offences under Section 4A (1a) read with 4B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.



2. The allegation is that the defacto complainant was involved in election duty in 18th Harbor Constituency, Additional Flying Squad Team - III, Central Parliament Constituency. On 14.04.2019, at 9:00 hrs, the petitioners along with party members were alleged to have distributed pamphlets near Francis Xavier Church situated in Prakasam Salai. Based on defacto complainant's complaint, the respondent police registered FIR on 14.04.2019 in Crime No.146 of 2019 on the file of N4, Muthalaipet Police Station for the commission of alleged offences under Section 4A(1a) read with 4B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. Thereafter, on 26.07.2021, after a delay of two years, the respondent police have filed final report in C.C.No.1199 of 2021 before the learned 16th Metropolitan Magistrate Court, George Town. This Court already has laid down in the Judgment in "Pavayi Vs. The State represented by the Sub Inspector of Police, Thiruchengode Town Police Station and another" (Cr1.O.P.No.20346 of 2019 dated 30.07.2019) has held that in respect of such cases, prior permission under Section 155 of Cr.P.C., from the learned Magistrate is mandatory and proceedings to the contrary are liable to be quashed. In the instant case also criminal proceedings is being continued without obtaining any such prior permission. Mr.Leonard Arul Joseph Selvam, Government Advocate (Cr1. Side), is unable to give any valid answer in respect of the said contention on behalf of the petitioners.

3. In that view of the matter, the continuation of criminal proceedings in C.C.No.1199 of 2021 would amount to abuse of process of law. Therefore, C.C.No.1199 of 2021, on the file of the learned 16th Metropolitan Magistrate Court, George Town stands quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

ab/mkn

To

1. The 16th Metropolitan Magistrate Court,
George Town.



2. The Inspector of Police,
N3, Muthalaipet Police Station,
Chennai - 600 001.

3. The Public Prosecutor,
Madras High Court.

Crl.O.P.No.12188 of 2022

RR(CO)
RLP(03/06/2022)