



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23592 of 2021

&

Crl.MP.Nos.12967 & 12969 of 2021

Raji @ Raju

...Petitioner/Accused No.1

Vs.

State rep. by
The Inspector of Police,
Vridhachalam Police Station,
Cuddalore District.
Crime No.717 of 2017

...Respondents/Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in S.T.C.No.1363 of 2019 pending before the learned Judicial Magistrate No.1, Vridhachalam in connection with Cr.No.717 of 2017 dated 11.10.2017 for the offences under Section 4(A)(1)(B) r/w. 4(B) of Tamil Nadu Open Places [Prevention of disfigurement] Act, 1959 on the file of the respondent and quash the same as illegal.

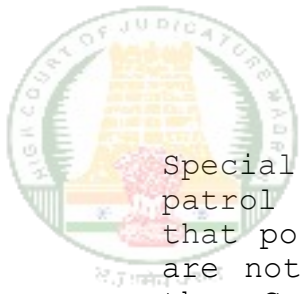
For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner, who is arrayed as A1 in S.T.C.No.1363 of 2019, facing trial for the offences under Section 4(A)(1)(b) r/w. 4(B) of Tamil Nadu Open Places [Prevention of disfigurement] Act, 1959, filed this quash petition.

2.The gist of the complaint is that on 11.10.2017, the Sub-Inspector of Police attached to the respondent, along with the



Special Sub-Inspector of Police and Head Constable were on patrol duty. When they reached Palakarai bus stop, they found that poster was stuck in the bus stop wall questioning that they are not concerned as to how the former Chief Minister died but the Government is the reason for a common man to die. Thereafter, on discreet enquiry it was found that the petitioner and one Muruganandham, who are the State Co-ordinator and District Co-ordinator of Makkal Adhigaram are the reason for the same. Hence, a case was registered against them. On completion of investigation and recording the statement of witnesses, namely, Mr. Jayaprakash, Head Constable and Mr. Radhakrishnan, SSI, charge sheet was made ready on 11.10.2017 and later, it was filed before the learned Judicial Magistrate No.1, Vridhachalam on 18.09.2019.

3. The contention of the learned counsel for the petitioner is that the petitioner is the State Co-ordinator of Makkal Adhigaram, who was the voice for the voiceless. The petitioner is an Advocate practicing in Vridhachalam Court. In this Case, there is no material to show that the petitioner had printed and pasted such a poster. The reasoning given by the respondent police that the name of the petitioner along with one Muruganandam was found in the poster and hence they are arrayed as accused, is not proper. In this case, the Depot Manager or the Bus stand Incharge have not lodged any complaint about the disfigurement of the open place. Further, neither the poster nor any mahazar prepared for pasting and availability of the poster. The investigation in this case was done in a perfunctory manner on the same day of the complaint, statements are recorded and final report filed. Further, in this case, the witnesses are L.W.1, Head Constable and L.W.2, Special Sub Inspector of Police, who were part of the Patrol team along with L.W.3, Investigating Officer. In this case, the informant and the Investigating Officer are one and the same and further, on the point of limitation also, the case is to be quashed.

4. The learned Additional Public Prosecutor submitted that in this case, the petitioner had printed and made exhibiting of poster in public place. In the poster, it is printed that they are not concerned as to how the former Chief Minister died and the Government was not awake to the plight of the public. The poster was pasted in the public wall of the bus stop. After registration of FIR and on completion of investigation, charge sheet was filed before the concerned Court on 18.09.2019.

5. Considering the submissions made and on perusal of the materials, this Court finds that it is not in dispute that the occurrence had taken place, case was registered on 11.10.2017 and charge sheet filed only on 18.09.2019, almost two years thereafter. In this case, the maximum punishment is six months



and the charge sheet ought to have been filed within a period of one year under Section 468(2) of Cr.P.C. There are only three listed witnesses and all three are police personnels. There is no observation mahazar and any material seized from the scene of occurrence about the poster. The investigation was conducted only on one day and it is only a table top investigation. The petitioner is voicing the cause of voiceless in the name of Makkal Adhigaram. The petitioner is an Advocate, who is very much available and there is nothing to show that the petitioner was called for enquiry and questioned about the wall poster, which shows that the investigation is not done in a proper manner.

6. In view of the above, the proceedings in S.T.C.No.1363 of 2019 against the petitioner pending on the file of the learned Judicial Magistrate No.1, Vridhachalam is hereby quashed. The petition is allowed, accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Judicial Magistrate No.1,
Vridhachalam.
2. -do- through The Chief Judicial Magistrate,
Cuddalore.
3. The Inspector of Police,
Vridhachalam Police Station,
Cuddalore District.
4. The Public Prosecutor,
High Court, Madras.

+2ccs copies to Mr.S.Parthasarathy, Advocate SR. No.3875

Cr1.O.P.No.23592 of 2021

AK (CO)

PR (24/02/2022)