



WEB COPY



CrI.O.P No.27180 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **09.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.27180 of 2022
and CrI.M.P.Nos.16707 & 16708 of 2022

1.Dehlan Baqavi @ Sheik Mohammed
2.Yasar

... Petitioners

Vs.

1.State represented by
Inspector of Police,
N-3 Muthialpet Police Station,
Chennai – 600 001.

2.G.Kannan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.773 of 2021 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and quash the same as against the petitioners.

For Petitioners : Mr. A.Raja Mohamed

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor



WEB COPY



CrI.O.P No.27180 of 2021

ORDER

This petition is filed to call for the records in C.C.No.773 of 2021 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and quash the same as against the petitioners.

2. case has been registered on the complaint given by the second respondent in Cr.No.133/2019 on the file of the first respondent police for the offences under Section 4A(1a) r/w.4(B) Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

3. The learned counsel for the petitioners submitted that the allegation against the petitioners is that the petitioners and others were distributing pamphlets by violating the rules; so far as the offence under Section 4A(1a) r/w.4(B) Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 is concerned, a person should be punished only if he affixes, inscribes or exhibits in any place open to the public view, any post or any effigy or any bill, notice, document, paper containing any words, signs and visible representations; so, the maximum punishment for the said offence is only three months; so far charge sheet has not been filed and hence, the case is



barred by limitation.

WEB COPY

4. For the sake of convenience Section 4A of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 is extracted hereunder:

“4-A. Prohibition of pasting of posters and fixing of thatty boards, etc.

(1) Notwithstanding anything contained in Section 3, 3-A or 4 or any other provision of this Act, or any law for the time being in force no person shall, in any local area

(a) affix to, or inscribe or exhibit on, any place open to public view, an poster or any effigy, or any bill, notice, document, paper or other thing containing any words, signs or visible representations.”

5. Even in the First Information Report, it is not stated whether the pamphlets distributed by the petitioner contained any objectionable advertisements. The first respondent police did not seize any such pamphlets and the charge sheet has been laid without any fundamental materials to substantiate the charge against the petitioner. The charge sheet has also been filed later with an inordinate delay.

6. The learned counsel for the petitioners submitted that the petitioners are unaware of the reasons for which the delay has been condoned by the learned trial Judge. Whenever a petition has been filed



under Section 473 Cr.P.C. to condone the delay, the Court ought to have given notice to the petitioners and hear them before condoning the delay.

Since the petitioners are not aware of the reasons stated in the petition filed under Section 473 Cr.P.C. to condone the delay, it is clear that the petitioners were not given any opportunity while hearing the petition to condone the delay. The material particulars also does not disclose or substantiate the offence for which the accused has been charged.

7. With these bald materials, if the petitioners are subjected to trial that would only waste the precious time of the Court. Hence, I feel it is appropriate to invoke the powers of this Court under Section 482 Cr.P.C. to quash the proceedings.

8. In view of the above stated reasons, this Criminal Original Petition is allowed and the case in C.C. No.773/2021 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai is hereby quashed. Consequently, connected miscellaneous petitions are closed.

09.11.2022

Index : Yes/No
Speaking Order : Yes / No
bkn



CrI.O.P No.27180 of 2022

WEB COPY To:

- 1.The XVI Metropolitan Magistrate,
George Town,
Chennai.
- 2.The Inspector of Police,
N-3 Muthialpet Police Station,
Chennai – 600 001.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.O.P No.27180 of 2022

R.N.MANJULA, J.,

bkn

CrI.O.P No.27180 of 2022

09.11.2022