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Crl.O.P.No.29104 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.29104 of 2022
and Crl.M.P.Nos.17837 and 17838 of 2022

Siyabudheen

...Petitioner

-Vs-

State represented by its
The Sub-Inspector of Police,
Gudalur Police Station,
Nilgiris.
(Crime No.1122 of 2020)

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in S.T.C.No.703 of 2021 pending before the Judicial Magistrate and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)

ORDER



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This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.703 of 2021 on the file of the learned Judicial Magistrate, Gudalur, Nilgiris District having been taken cognizance for the offences under Sections 4A(1a) and 4B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

2. The case of the prosecution is that on 05.12.2020 at about 06.00 p.m, when the respondent Police were on patrol duty near Sembala Patti Shop, the petitioner tied and hanged an advertisement board in the iron pipe for declaring protest with the content "On December 6th SDPI party nilgiris district conducting a huge demonstration near old bus stand at evening 4.30 p.m". Hence, the respondent registered an FIR in Crime No.1122 of 2020 for the offences under Sections 4A(1a) and 4B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. After completion of investigation the respondent filed a final report and the same has been taken cognizance by the Trial Court.

3. Heard both sides.



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4. A perusal of records revealed that the respondent is not a competent person to lodge a complaint under Sections 4A(1a) and 4B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. It is relevant to extract the provisions of Section 4 of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959

" 4. Penalty for unauthorised disfigurement by advertisements:-

Whoever affixes to, or inscribes or exhibits on, any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both".

5. Admittedly, the respondent is neither the owner or the occupier or the person in management of the alleged property nor the competent person to initiate criminal prosecution. Further, the entire complaint is vague since the respondent failed to satisfy about the place of occurrence and no specific allegations are as against the petitioner. That apart, there was no seizure of the poster. Without any materials, the respondent mechanically filed a final report. Therefore, the final report filed by the



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respondent cannot be sustained as against the petitioner.

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6. In view of the above, the proceedings in S.T.C.No.703 of 2021 on the file of the learned Judicial Magistrate, Gudalur, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

mn

To

1. The Judicial Magistrate, Gudalur.
2. The Sub-Inspector of Police,
Gudalur Police Station,
Nilgiris.
3. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.29104 of 2022
and CrI.M.P.Nos.17837 and 17838 of 2022

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