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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.30007 of 2018 &
CrI.M.P.No.17622 of 2018

H.Mohideen

...Petitioner/Accused

Vs

State rep. by its
The Sub Inspector of Police,
S-11, Tambaram Police Station,
Chennai.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in Crime No.2499 of 2018 on the file of the respondent and quash the same as illegal and without jurisdiction.

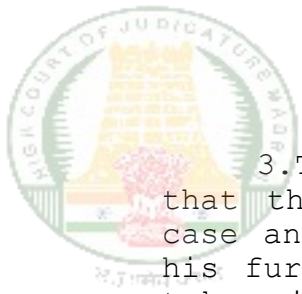
For Petitioner : Mr.L.Abdul Basitti

For Respondent : Mr.R.Kishore Kumar,
Government Advocate [Criminal Side]

O R D E R

This petition has been filed to quash First Information Report in Crime No.2499 of 2018 on the file of the respondent and quash the same as illegal and without jurisdiction registered under section 153A of IPC and Section 4[1] Tamil Nadu Open Places [Prevention of Disfigurement] Act, 1959.

2.The allegation in the First Information Report is that the petitioner was affixing posters on the wall belonging to the school which develops hatred against the Government. As disfigurement should be stopped and also action has to be taken against the groups which create communal hatred, the First Information Report came to be registered on 26.09.2016 by the respondent.



3.The learned counsel appearing for the petitioner submitted that the entire First Information Report is nothing but false case and the affected party has not given any complaint. It is his further contention that the even the avements in poster is taken into consideration, the same would not fall within the ambit of Section 153 IPC or Section 4[1] of Tamil Nadu Open Places [Prevention of Disfigurement] Act, 1959. Hence, submitted that the First Information Report has to be quashed.

4.The learned Government Advocate [Criminal Advocate] has no objection in quashing the First Information Report.

5.I have perused the First Information Report. Except demanding to stop the hatred politics of the Central Government and also to take action with iron hands against certain groups, no other statement is said to have been made in the First Information Report. It is well settled that to attract 153A IPC or Section 4[1] Tamil Nadu Open Places [Prevention of Disfigurement] Act, 1959, promotion of enmity or hatred or ill-will between two groups of different religion or linguistic or caste or communities, it is necessary that atleast two such groups or communities should be involved. Merely insisting the Government to take action against any other group or community, cannot attract either the offence under section 153A of IPC or Section 4[1] Tamil Nadu Open Places [Prevention of Disfigurement] Act, 1959 as it is well settled in the judgments of the Apex Court in Manzar Sayeed Khan Vs. state of Maharashtra and another reported in 2007 [5] SCC 1. Therefore, merely expressing some grievance and to take action against certain groups, this Court is of the view that the same would not attract the offence under section 153A of IPC. Similarly, the First Information Report only indicate that posters have been kept on the wall and there is any other details as to whether those posters have been pasted in the property of the school. Further, though the First Information Report is said to have been registered on 26.09.2016, the same has been received by the Court only on 03.10.2016. Further, it is also to be noted that merely expressing their feeling with regard to action of police or administration of the Government, such an advertisement shall not be deemed to be objectionable as per the explanation of Section 2 of the Tamil Nadu Open Places [Prevention of Disfigurement] Act, 1959. In such view of the matter, merely seeking some action against some person, it cannot be said that such advertisement will fall within the ambit of Section 4[1] Tamil Nadu Open Places [Prevention of Disfigurement] Act, 1959. Hence, the present First Information Report is liable to be quashed.

6.Accordingly, this Criminal Original Petition is allowed and the First Information Report in Crime No.C.No.2499 of 2018



on the file of the respondent registered against the petitioner is quashed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

1. The Sub Inspector of Police,
S-11, Tambaram Police Station,
Chennai.
2. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.I.Abdul Basith, Advocate, S.R.No.6556

Cr1.O.P.No.30007 of 2018

PL(CO)
RGA(24/02/2022)