



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.441 of 2022

and

Crl.M.P.(MD)Nos.335 & 336 of 2022

WEB COPY

D.Balamurugan

... Petitioner / Sole Accused

vs.

1.State represented by
The Inspector of Police,
Theppakulam Police Station,
Madurai District.
(Crime No.490/2016)

... Respondent/Complainant

2.P.Vijayalakshmi
Executive Magistrate,
Assistant Director of Agriculture,
Alanganallur,
Madurai.

... 2nd Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in S.T.C.No.329 of 2021 on the file of the Judicial Magistrate Court No.1, Madurai and quash the same.

For Petitioner	: Mr.R.Senthil Kumar
For R1	: Mr.B.Thanga Aravindh
	Government Advocate (Crl.)

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the respondents.

2. The petitioner was shown as an accused in Crime No. 490 of 2016 registered on the file of the first respondent. The case was investigated and final report was filed and cognizance of the offence under Section 188 of IPC and Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 was taken. The case is pending on the file of the Judicial Magistrate No.1, Madurai in S.T.C.No.329 of 2021.

3. The case of the prosecution is that when the flying squad were on their rounds in connection with election duty on 03.05.2016,

<https://hcservices.ecourts.gov.in/hcservices/>



in violation of the election norms, the petitioner had displayed flex banners as well as party flags.

4. As rightly pointed out by the learned counsel appearing for the petitioner, FIR could not have been registered straight away by the police on their own for the offence under Section 188 of IPC as that would run counter to ***Jeevanandham and others Vs. State (2018 2 Law Weekly Cr1. 606)***. Likewise, there is no complaint from the concerned owner. In fact, the flex boards were displayed only on the walls of the party office. No aggrieved person has lodged any complaint. The continuation of the impugned prosecution is not warranted. The impugned proceedings are quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate No.1,
Madurai.

2.The Inspector of Police,
Theppakulam Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SENTHIL KUMAR, Advocate (SR-2083[F] dated 21/01/2022)
Crl.O.P.(MD)No.441 of 2022

21.01.2022

GM (CO)

GC(15.02.2022) 2P 5C

<https://hcservices.ecourts.gov.in/hcservices/>