



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.03.2022**

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**CRL.OP (MD)NO.1800 of 2020**

**and**

**CRL.M.P (MD)No.856 of 2020**

Balamurugan :Petitioner/Accused No.2

.vs.

1.The State, represented by  
The Inspector of Police,  
Thiruppuvanam Police Station,  
Sivagangai District. :Respondent/Complainant  
(FIR No.328 of 2017)

2.Dheen Mohamed : Respondent/Informant

**PRAYER:** Crimonal Original Petition filed under Section 482 of the Criminal Procedure Code praying this Court to call for the records of C.C.No.269 of 2017, on the file of the Judicial Magistrate Court, Mandamadurai, Sivagangai District and to quash the same insofar as the Petitioner alone is concerned.

|                  |                                     |
|------------------|-------------------------------------|
| For Petitioner   | :Mr.R.Murugappan                    |
| For Respondent-1 | :Mr.P.Kottaichamy<br>Govt.Advocate  |
| For Respondent-2 | :Mr.S.M.A.Jinnah<br>(No appearance) |

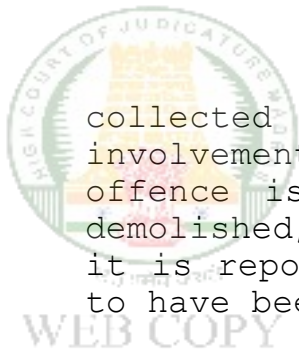
**O R D E R**

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This Criminal Original Petition has been filed to quash the final report filed under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 and Section 505(1) of IPC.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The allegation in the final report is that the accused had affixed the advertisement demanding removal of the unused and dilapidated mosque on the main road. It is submitted by the learned counsel appearing for the Petitioner that the entire material



collected by the prosecution did not say anything about the involvement of the Petitioner in the said offence. Further, the said offence is also not attracted and the mosque is sought to be demolished, which was not all used by the muslim community. Further, it is reported that at that point of time itself, the mosque said to have been removed by the authorities.

4.The learned Government Advocate appearing for the first respondent would submit that the mosque has been removed by the Highways Department and as such, the learned Government Advocate had left the matter to the discretion of this Court to pass necessary orders.

5.The charge alleged against the Petitioner is that there was a demand made by the Hindu people Party by way of advertisement to remove the dilapidated mosque situated in the main road and the demand was made towards the State Government as well as the Central Government. It is relevant to note that any advertisement which incite any section of the citizen of India to act in violence or which intended to outrage any religious faith or cause indecent to the faith or intended to black-mail or any such advertisement which incite any one to commit violence, is an objectional advertisement. Therefore, mere demand to remove the dilapidated mosque which was not at all used by the muslim community which was stading on the road. Such demand itself cannot be construed to mean that it is an objectionable advertisement. From the materials unearthed by the prosecution, this Court is unable to find that such advertisement hurt the feelings of the other religion or was intended to outrage the religious faith of other community. Accordingly, the offence under Section 4-A(1)(a) is not made out and similarly there was no material to say that such an act affects the section of the public or which incite any clause or community to commit offence and hence offence under Section 505(1) of IPC will not be attracted. Therefore continuing the prosecution with the available materials is nothing but a futile exercise and abuse of process of law.

6.Accordingly, this Criminal Original Petition is allowed and the case in C.C.No.269 of 2017, on the file of the Judicial Magistrate Court, Mandamadurai, Sivagangai District is quashed insofar as the Petitioner is concerned. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

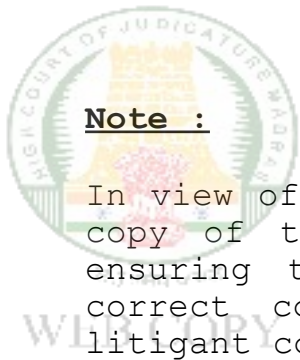
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/ /2022

Sub Assistant Registrar(CS)

vsn

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



**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,  
Manamadurai,  
Sivagangai District.
- 2.The Inspector of Police,  
Thiruppuvanam Police Station,  
Sivagangai District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.R.MURUGAPPAN, Advocate ( SR-10048[F] dated 04/03/2022 )

**CRL.OP(MD)NO.1800 of 2020**

**and**

**CRL.M.P(MD)No.856 of 2020**

**03.03.2022**

RK(24/03/2022) 3P 5C