



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.2529 of 2022

and

Crl.M.P(MD)No.1891 of 2022

Suresh

...Petitioner/
1st Accused

Vs.

1.The State represented by its
The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
(Crime No.442 of 2020)

...Respondent/
Complainant

Traffic Ramasamy(Died)
Founder Chairman,
Tamilnadu Social Workers Organization,
128, Prakash Salai, Broadway,
Chennai.

...Respondent/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in connection with Crime No.442 of 2020 on the file of the first respondent police and quash the FIR insofar as the petitioner is concerned.

For Petitioner : Mr.S.Poornachandran

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

O R D E R

The case of the prosecution is that the petitioner without adhering the COVID norms erected digital banner, which was banned by this Court. Therefore, the defacto complainant sent complaint through Whatsapp but, not action was taken by the first respondent.

2.The learned Counsel for the petitioner would submit that the FIR in Crime No.442 of 2020 was registered on 27.09.2020 for the offences under Sections 269 of I.P.C, Section 4(1) of Tamil Nadu



Open Places (Prevention of Disfigurement) Act, 1959 and Section 3 of Epidemic Disease Act, 1897 by the first respondent police. He further submitted that even as per law complaint lodged by the second respondent, no offence has been made out to attract the offence under Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. Even assuming that the said offence attracts as against the petitioner, the second respondent has no locus to lodge complaint since the provision under Section 4 (1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, clearly shows that the person who owned the building has locus to lodge complaint. Admittedly, the second respondent is unknown to the owner of the building and as such he has no locus to lodge complaint as against the petitioner.

3.That apart the complaint has been registered as early as on 27.09.2020 and even till today the first respondent did not complete the investigation and failed to file any final report. Therefore, it is clearly hit by period of limitation as provided under Section 468 of Criminal Procedure Code.

4.I will not fault the respondent for having registered the impugned First Information Report. But no adverse consequence ensued. It is seen that the Government has taken a policy decision not to pursue the cases registered in the wake of breach of lock down restrictions. In these circumstances, continuance of the impugned prosecution is not warranted.

5.Therefore, the impugned First Information Report is quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

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 Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P (MD) No.2529 of 2022
07.02.2022

MGJ(17.02.2022) 3P 3C