



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2022

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD) No.8447 of 2022

WEB COPY

Sasikumar

... Petitioner

Vs

1.The State represented by
The Inspector of Police,
Perunazhi Police Station,
Ramanathapuram District.
(Crime No.107 of 2019).

2.Ramesh,
H.C-1878,
Perunazhi Police Station,
Perunazhi.

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records relating to the FIR in Crime No.107/2019, on the file of the first respondent and quash the same as against the petitioner.

For Petitioner : Mr.M.Karunanidhi
For M/s.M.Karthikeya Venkatachalapathy
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The criminal original petition has been filed seeking to quash the FIR in Crime No.107/2019, on the file of the first respondent.

2.The case of the prosecution is that on 26.12.2019, the second respondent found that the petitioner affixed a notice on the bus stop by canvassing the voters and by which, the petitioner violated the election code of conduct. Hence the first respondent registered an FIR in Crime No.107/2019, for the offence under Section 4B of Tamil Nadu Open Places (prevention of Disfigurement) Act, 1959.

3.The impugned FIR has been registered on 26.12.2019. Even till today, the first respondent did not file the final report. The punishment for the offence under Section 4B Tamil Nadu Open Places (prevention of Disfigurement) Act, 1959 shall be 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. Therefore, the first respondent ought to have file a final report within a period of one year.



4.It is relevant to extract Section 468 of Cr.P.C.

(2) The period of limitation shall be-

(a) six months, if the offence is punishable with fine only

1. Provisions of this Chapter shall not apply to certain economic offences, see the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974),

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years.

5. Accordingly, the offence is punishable with imprisonment for a term not extending one year. The first respondent ought to have file a final report within a period of one year from the date of registration of FIR. In the case on hand, admittedly, the first respondent failed to file a final report even till today.

6. That apart, the first respondent cannot file any final report on registration of FIR on the complaint lodged by the second respondent. Since the learned Judicial Magistrate is barred from taking cognizance except on a complaint in writing by the public servant concerned or any officer subordinate to public servant under Section 195(1) of Cr.P.C.

7. In view of the above, the impugned FIR cannot be sustained as against the petitioner and the same is liable to be quashed. Accordingly, the FIR in Crime No.107/2019 is quashed and the criminal original petition is allowed.

Sd/-

Assistant Registrar(A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1. The Inspector of Police,
Perunazhi Police Station,
Ramanathapuram District.



2.H.C-614,

Perunazhi Police Station, Perunazhi.

3. The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M. KARTHIKEYA VENKITACHALAPATH, Advocate (SR-22633[F]
dated 29/04/2022)

Crl.O.P(MD)No.8447 of 2022

Date:29.04.2022

SA(25.05.2022) 3P 5C