



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.05.2022

CORAM

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

Crl.O.P. (MD)No.8749 of 2022

&

Crl.M.P. (MD)Nos.5874 of 2022

Ramar

... Petitioner

Vs

1.State through
The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District
(Crime No.113/2021).

2. Sekar,
Deputy Surveyor, Medukulathur,
Election Flying Squad A2 Team, Taluk Office
Mudukulathur, Ramanathapuram District.

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the entire records pertaining to the case in Crime No.113 of 2021 on the file of the R1 and to quash the same.

For Petitioner : Mr.T.Veerakumar

For Respondent : Mr.M.Sakthikumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.113 of 2021, on the file of the first respondent and to quash the same.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3.The case of the prosecution is that on 21.03.2021 at about 03.30PM during election time, when the second respondent was



patrolling, he found that the Flags of DMK party were flying at EB Post. Based on his complaint, a case in Crime No.113 of 2021 was registered for the offences under Section 4(A)(1b) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

4.The learned counsel for the petitioner would submit that the case has been registered for the offences under Section 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, which imposes a punishment which may extend to three months or with fine, which may extend to Rs.200/-. When that being so, the final report as per Section 468(2)(b) of Cr.P.C., ought to have been filed within the period of limitation i.e., one year from the date of occurrence and there is bar for taking cognizance beyond the period of limitation. In this case, the offence is stated to have been committed on 21.03.2021 and till date the final report has not been filed, thereby, he would pray to quash the First Information Report. The learned counsel for the petitioner also relied upon the order of this Court in Crl.OP(MD)No.1972 of 2020 dated 21.02.2020.

5.I have perused the records. As per the decision of this Court cited *supra*, Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 reads as follows:-

"4(1) Penalty for unauthorized disfigurement by advertisement:- [Subject to the provisions of Section 4-A, whoever affixes to] or inscribes or exhibits on, any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished 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.

(2) the Court while, Convicting the offender under sub-Section (1) may by order, also, direct the offender to pay by way of the building or premises, of such amount not exceeding five hundred rupees on the whole as may be reasonable incurred by him in erasing and colour washing the portions of the building or premises which have disfigured by the act of the offender."

6.There is no special provision barring the applicability of Section 468 of Cr.P.C., to the Tamil Nadu Open Places of Prevention of Disfigurement Act, 1959. As per Section 468(2)(b) of Cr.P.C, the final report ought to have been filed within one year. In this case, it has not been filed till date.

10.In view of the same, this Court is of the opinion that no useful purpose would be served by keeping the First Information Report pending and thereby, the First Information Report in Crime



No.113 of 2021 is quashed and this petition is allowed.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar
(Vavational Officer)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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,
Abiramam Police Station,
Ramanathapuram District.

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

Crl.O.P. (MD)No.8749 of 2022
&Crl.M.P. (MD)No.5874 of 2022
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