



CrI.O.P.No.15894 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P (MD).No.15894 of 2023

1. K.R.Periyakaruppan
2. A.Bala Murugesan
3. A.Kuma

..... Petitioners

Vs.

1. State rep. by
The Sub-Inspector of Police,
Pallathur Police Station,
Sivagangai District.

.....1st Respondent/Complainant

2. P.Mahalakshmi

..... 2nd Respondent/De Facto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to S.T.C. No. 940 of 2022 on the file of the Judicial Magistrate Court at Karaikudi, Sivagangai District and quash the same.

For Petitioners : Mr.K.Muthuramalingam

For Respondents : Mr.M.Babu Muthu Meeran
For R1 Additional Public Prosecutor



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ORDER

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This petition has been filed seeking to quash the proceedings pending in S.T.C. No. 940 of 2022 on the file of the Judicial Magistrate Court at Karaikudi, Sivagangai District.

2. The case of the prosecution is that the accused persons had exceeded the time limit that was prescribed and had campaigned during the election on 03.04.2021 at about 23:00 hours. Based on the complaint given by the 2nd respondent, an FIR came to be registered by the first respondent in Crime No. 32 of 2021 for offence under section 171(H) of IPC and section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 (hereinafter called as the “Act”).

3. The first respondent took up the investigation and has filed the final report before the Court below and the Court below has taken cognizance for offence under section 4(1) of the Act. Aggrieved by the same, the present quash petition has been filed before this Court.

4. Heard Mr.K.Muthuramalingam, learned counsel for the



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petitioners and Mr.M.Babu Muthu Meeran, learned Additional Public

Prosecutor appearing on behalf of the respondent.

5. The only allegation that was made against the accused persons was that they exceeded the time limit fixed and had conducted the campaigning during the election. The final report is now confined only to offence under section 4(1) of Act. To substantiate this charge, this Court does not find any materials and the entire final report along with statements recorded from the witnesses does not make out an offence under Section 4(1) of the Act.

6. Apart from the above reason, it is seen that both section 171 (H) of IPC as well as section 4(1) of the Act, are non cognizable offence. However, the FIR has been registered without following the procedure under Section 155 of Cr.PC. It is yet another illegality which vitiates the proceedings pending before the Court below.

7. In the light of the above discussion, the proceedings in



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S.T.C. No. 940 of 2022 on the file of the Judicial Magistrate Court at

Karaikudi, Sivagangai District, is hereby quashed and accordingly, this

Criminal Original Petition is allowed.

07.09.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

rka/dpa

To

1. Judicial Magistrate Court at Karaikudi, Sivagangai District

2. State rep. by
The Sub-Inspector of Police,
Pallathur Police Station,
Sivagangai District

3. The Public Prosecutor
High Court of Madras,
Madras.



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N.ANAND VENKATESH, J

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