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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP(MD)No.2904 of 2023

and

Cr1.MP(MD)No.2646 of 2023

Jeyaraman : Petitioner/A1

Vs.

1.The State represented by
The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.
(In Crime No.20 of 2019) : R1/Complainant

2.Mr.Thirumalaisamy,
Sub Inspector of Police,
Vasudevanallur Police Station,
Thenkasi District. : R2/De-facto Complainant

Prayer:Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the impugned final report filed in STC No.8 of 2020 on the file of the Additional District Munsif-cum-Judicial Magistrate, Sivagiri, in connection with Crime No.20 of 2019 on the file of the respondent police station and to quash as against the petitioners are concerned and pass such further or other orders.



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For Petitioner : Mr.Henri Tiphagne
For Respondents : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

O R D E R

This criminal original petition is filed seeking quashment of the case in STC No.8 of 2020 on the file of the Additional District Munsif-cum-Judicial Magistrate, Sivagiri.

2.The case of the prosecution in brief:-

The de-facto complainant, who is working as Sub Inspector of Police, lodged a complaint stating that on 16/01/2019, when he was on official duty, they found a poster pasted on a tree in NH 744 Road by the Association called "Nanjai Meetppu Matrum Saalai Maatriyamathal Sangam, against the formation of the National Highways Four-Lane, without any permission. Over the above said occurrence, a case in Crime No.20 of 2019 was registered for the offence under section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. After that, final report was filed and taken cognizance in STC No.8 of 2020 by the trial court.



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3. Seeking quashment of the same, this petition has been filed that the allegations mentioned in the final report are not attracting; the offence said to have been taken place, on 16/01/2019, but the final report was filed, on 08/02/2020.

4. Heard both sides.

5. Even though the final report was filed within the period of limitation, perusal of the records shows that the above said poster was not recovered and no witness was examined to show the pasting. Even if we take that the above said offence has been committed by the accused persons, in the absence of recovery of poster, there is no chance for conviction.

6. More-over, another important factor is that the place in which the above said flex board was put up is neither mentioned in the complaint nor in the final report. No material has been collected during the course of investigation to show the place of occurrence. On that ground also, this petition is liable to be allowed.



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7. In the result, this criminal original petition stands **allowed**. The case in STC No.8 of 2020 on the file of the Additional District Munsif-cum-Judicial Magistrate, Sivagiri, is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

21/06/2023

Index:Yes/No
Internet:Yes/No
tta/er

To,

1. The Additional District Munsif-cum-Judicial Magistrate,
Sivagiri.
2. The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.OP(MD)No.2904 of 2023

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