



Crl.O.P.(MD)No.6287 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **13.04.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.6287 of 2020

Pandidurai ... Petitioner / Sole Accused

Vs.

1.The State rep. by

The Inspector of Police,
Paramakudi Police Station,
Paramakudi,
Ramanathapuram District

(In Crime No.317 of 2020) ... 1st respondent/complainant

2.V.N.Sethupathy ... 2nd Respondent/ defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.317 of 2020, on the file of the first respondent police and to quash the same.

For Petitioner : Mr.J.Lawrance

For Respondents : Mrs.M.Aasha
Government Advocate (Crl.Side)for R1

: No appearance for R2



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ORDER

This petition is filed to quash the First Information Report in Crime No.317 of 2020, on the file of the first respondent police

2. The allegation against the petitioner is that the defacto complainant is the State Wing Organizing Secretary of a Political party, namely, Mukkulathor Pulipadai and the Leader Mr.Karunas is the Member of the Tamil Nadu State Legislative Assembly, elected from Tiruvadanai Constituency and that the petitioner was an office bearer of the said political party. Later, he was expelled from the said party and that he was using the Complainant's party's flag, even after the expulsion and that he was using the M.L.A. vehicle pass and a case in Crime No. 317 of 2020 was registered against the petitioner.

3. On the side of the petitioner, it is stated that the petitioner is a law abiding citizen, he was an office bearer in the political party, namely, Mukkulathor Pulipadai, till 2017 and only at the instance of the petitioner, the leader of the political party, namely, Mr.Kanunas has got a seat for Assembly Election held during the year 2016. Due to some



difference of opinion, the petitioner was expelled from the party. The petitioner started an Organization called Mukkula Thevar Pulipadi Sangam, on his own and he is running the organization, which was registered under the Tamil Nadu Societies Registration Act, as No.SI 1377/2017. The petitioner – Organization has nothing to do with the defacto complainant's party. The Xerox copy of the vehicle pass of the M.L.A. Mr.Karunas was already returned. During the year 2017, a criminal case was foisted against the petitioner before the Virugambakkam Police Station, Chennai and during that enquiry, the petitioner has handed over the pass and hence, he was not using the vehicle pass as alleged by the defacto complainant. The petitioner's party flag is different and distinct from the defacto complainant's party flag. The complainant's political party was not at all recognized under Section 2(1) of the Representation of the Peoples Act and by the Election Commission of India. No right was vested with the defacto complainant for using the flag. Section 107 of Trade Mark Act was not applicable to the present case and hence, the case under Section 420 of I.P.C also does not arise and prayed the F.I.R to be quashed.

4. On the side of the prosecution, it is stated that the petitioner was a member of the political party, later, he was expelled from



the party, even after being expelled from the party, the petitioner is using the flag and the vehicle pass given to the M.L.A., without the permission of the concerned M.L.A.

5. It is admitted that the petitioner was a Member of a political party, by name, Mukkulathor Pulipadai and then, he was expelled from the political party. It is stated that the petitioner has started his own political party, namely, Mukkula Thevar Pulipadai Sangam and the same was registered in No.SI 1377/2017. The allegation against the petitioner is that he used the flag of the previous political party, that is, Mukkulathor Pulipadi. A case under the Trade Mark Act was registered against the petitioner. Whether the concerned symbol and flag of the political party was registered under the Trade Mark Act was not stated in the F.I.R. A political party cannot be named as doing some Trade.

6. On the side of the petitioner, it is stated that the symbol of both the parties are different and distinctly identified. It is stated that the vehicle pass was handed over to the police during the previous enquiry.



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7. It is stated that the vehicle pass was handed over and it was not used by the petitioner. There is some distinction between the symbol used by the petitioner and the symbol used by the political party of the defacto complainant. Political party is not doing any recognized Trade. Since the Trade Mark Act is not applicable to the facts of the case, it is decided that no case is made out under Section 420 of I.P.C.

8. No complaint was given against the petitioner by the National Highways Authority of India, regarding the misuse of vehicle pass given to M.L.A.. In the above circumstances, it is decided that the F.I.R in Crime No.317 of 2020, on the filed of the first respondent is liable to be quashed.

9. Hence, this Petition is allowed and the F.I.R in Crime No. 317 of 2020, on the file of the first respondent police, is hereby quashed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

13.04.2023



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R.THARANI. J.

Ls

To

1. The Inspector of Police,
Paramakudi Police Station,
Paramakudi, Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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