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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/06/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.6465 of 2023
and
Cr1.MP(MD)Nos.5665 and 5666 of 2023

Vadivel : Petitioner/Sole Accused

Vs.

1.State represented by
The Inspector of Police,
Sikkal Police Station,
Ramanathapuram District,
(Crime No.40 of 2019 : R1/Complainant

2.Jeyanthi Mala,
Agriculture Officer,
FST C3 Team,
212-Mudhukulathur,
Ramanathapuram District. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the charge sheet in STC No.92 of 2019 on the file of the Judicial Magistrate, Kadaladi, Ramanathapuram District and quash the same and pass such further or other orders.

For Petitioner : Mr.T.Veerakumar

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

**ORDER**

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This criminal original petition has been filed seeking quashment of the case in STC No.92 of 2019 on the file of the Judicial Magistrate, Kadaladi, Ramanathapuram District.

2. The case of the prosecution in brief:-

On 05/04/2019 at about 10.35 am, when the Flying Squad comprising the de-facto complainant and others were on routine check up on the eve of Parliamentary Election, they found one Mahendra Car bearing registration No.TN-59-BP-9387 came with a particular political party flag. At that time, the Parliamentary Election was underway and the Code of Conduct was in force. Since there is no prior permission obtained by the accused to fix the flag in the Car, a case in Crime No.40 of 2019 was registered for the offence under sections 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 and section 177 of the Motor Vehicles Act, 1988. After completing the investigation, final report was filed and it was taken cognizance in STC No.92 of 2019 by the Judicial Magistrate, Kadaladi, Ramanathapuram.



3. Seeking quashment of the same, this petition has been filed by the petitioner on the ground that none of the allegations mentioned either in the FIR or in the final report attract any of the ingredients as alleged.

4. Heard both sides.

5. The date of occurrence is stated to be on 05/04/2019. The final report was filed on 18/06/2019, which is well within the period of limitation.

6. The fact remains that the allegation against the petitioner is that he displayed his party flag in the Car, which according to the prosecution, is not permitted under section 177 of the Motor Vehicles Act. It appears that on the date of the above said occurrence, the election was on due. Only subsequent instructions of the Central Election Commission, the above said regulation was imposed. But reading of the Election Commission instructions does not indicate the fact that political party members are prevented from using the flag, but subject to the order of the Court, they can display the flag during the election process. Along with



the final report, no material has been placed by the prosecution to the effect that the Election Commission issued instructions to the political parties to not display the flag in their vehicles. In the absence of any such instructions, from the Election Commission of India, on the eve of the above said election, in spite of the proceedings against the petitioner under section 177 of the Motor Vehicle Act, section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 has also been laid, which provision is not applicable. So, the above said ingredients does not attract in the facts and circumstances of the case. More-over, it is a trivial matter, which has been dragged from the year 2019.

7. On the sole ground of delay in completing the trial, no useful purpose is going to be served subjecting the petitioner to undergo the trial process, after a lapse of four years. A trivial issue should not be dragged on endlessly. So, this criminal original petition is liable to be allowed.



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8. In the result, this criminal original petition is **allowed**. The case in STC No.92 of 2019 on the file of the Judicial Magistrate, Kadaladi, Ramanathapuram District, is herein quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

15/06/2023

Index:Yes/No
Internet:Yes/No

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To,

1. The Judicial Magistrate,
Kadaladi,
Ramanathapuram District.
2. The Inspector of Police,
Sikkal Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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