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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation : 25/04/2023

Date of Pronouncement : 21/08/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)Nos.7664 of 2023

and

Crl.MP(MD)Nos.6687 and 6689 of 2023

Kalith : Petitioner/Sole Accused

Vs.

1.The State represented by
The Inspector of Police,
Kalakkad Police Station,
Tirunelveli.
(Crime No.278 of 2019)

: R1/Complainant

2.Suntharajan

: R2/De-facto Complainant

Prayer:Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in STC No.490 of 2019 on the file of the Judicial Magistrate, Nanguneri and quash the same as illegal and pass such further or other orders.



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For Petitioner : Mr.K.Navaneetharaja
For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition is filed seeking quashment of the case in STC No.490 of 2019 on the file of the Judicial Magistrate, Nanguneri.

2.The case of the prosecution in brief:-

On 21/06/2019 at about 08.45 am and 9.00 am, when the de-facto complainant was on patrolling duty, along with a police personnel, few members of the Socialist Democratic Party of India, pasted a poster of their party for the 11th year in the Government Department compound wall and near Kamarajar over-bridge without permission. Over the above said occurrence, a case in Crime No.278 of 2019 was registered for the offence under section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. After that, final report was filed and taken cognizance in STC No.490 of 2019 by the Judicial Magistrate, Nanguneri.



3. Seeking quashment of the same, this petition has been filed that the allegations mentioned either in the FIR or in the final report are not attracting as alleged.

4. Heard both sides.

5. Even though, the final report was filed within the period limitation, perusal of records shows that the above said poster was not recovered and no witness was also 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 I.e., the material object, even if the trial is ordered to be undertaken, there is no chance for conviction.

6. More-over, another important factor is that the place in which the above said poster was pasted 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.490 of 2019 on the file of the Judicial Magistrate, Nanguneri, is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

21/08/2023

Index:Yes/No
Internet:Yes/No
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To,

1. The Judicial Magistrate,
Nanguneri.
2. The Inspector of Police,
Kalakkad Police Station,
Tirunelveli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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Crl.OP(MD)Nos.7664 of 2023

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