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Crl.O.P.(MD)No.8413 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.8413 of 2023

and

Crl.M.P.(MD)Nos.7337 and 7339 of 2023

Nagoor Meerasa

... Petitioner / Sole Accused

Vs.

1.The State represented by

The Inspector of Police,

Kalakkad Police Station,

Tirunelveli.

... 1st Respondent / Complainant

2.Libi Paulraj

... 2nd Respondent/ Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in S.T.C.No.756 of 2019, on the file of the Judicial Magistrate, Nanguneri and to quash the same as illegal sofar as the petitioner is concerned.

For Petitioner : Mr.K.Navaneetharaja

For R1 : Mr.S.Manikandan
Government Advocate (Crl.Side) for R1

: No appearance for R2



ORDER

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This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to quash the proceedings in S.T.C.No.756 of 2019, on the file of the Judicial Magistrate, Nanguneri

2.The case of the prosecution is that the defacto complainant along with other police party were in the routine patrol on duty, on 14.11.2019, at that time, they found an illegal erection of flex board, near Kalakkadu Kottai Pallivasal, it carried the words "Babari Manjit Theerpu Marukkappatta Neethi". The above said flex board was erected without prior permission. On the basis of the above said complaint, a case in Crime No.553 of 2019, under Sections 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, was registered and after investigation charge sheet was filed and the same was taken on file as S.T.C. No.756 of 2019, on the file of the Judicial Magistrate, Nanguneri.

3. Seeking quashment of the same this petition has been filed by the petitioner, on the ground that the allegation mentioned in the final report does not attract any of the ingredients of the offence under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of



Disfigurement) Act. It is further submitted that as the non-cognizable offence, the police without any proper permission from the concerned Judicial Magistrate, has registered the case and also investigate in the matter.

4. Heard both sides.

5. The second ground is not available in this petitioner. It is a cognizable offence, even as per the provision of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, which was amended subsequently and so far as the first ground is concerned, it is mentioned in the F.I.R and as well as in the final report that without proper permission, the accused erected the flex board. But, this argument has not been acceptable, since the erection of the flex board, without prior permission, as per the provision of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, is *per se* in offence and illegal. But, what is disturbing to note is that no material has been collected in the course of investigation, to connect this petitioner in the above said erection of the flex board. In the final report two persons have been cited as witnesses, who belong to police team.



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6. A reading of the above said statements, it is seen that the involvement of this petitioner is not indicated. The third witness is the Sub Inspector of Police. How, he came to know that this petitioner is responsible for the erection, for the above said fact is not clear on record. So, without identifying the person, who erected the above said flex board, final report has been filed in a mechanical manner. So, on this sole ground, this petition is liable to be allowed and accordingly allowed. The proceedings in S.T.C.No.756 of 2019, on the file of the Judicial Magistrate, Nanguneri, in hereby set aside. Consequently, connected Miscellaneous Petitions are closed.

15.06.2023

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

To

- 1.The Judicial Magistrate,
Nanguneri.
- 2.The Inspector of Police,
Kalakkad Police Station,
Tirunelveli.



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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J.

Ls

Order made in
Crl.O.P.(MD)No.8413 of 2023

Dated: 15.06.2023