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Crl.O.P.No.27034 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.27034 of 2022
and
Crl.M.P.Nos.16603 & 16606 of 2022

1.G.R.Apparaj
2.Muhammad Ali

... Petitioners

Versus

1.State rep. by,
The Sub-Inspector of Police,
F1-Chindathiri Pettai Police Station,
Chennai.

2.Prakash

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the charge sheet in C.C.No.9146 of 2017 on the file of the XIV Metropolitan Magistrate Court, Egmore and to quash the same.

For Petitioners : Mr.R.Thirumoorthy

For R1 : Mr.S.Vinoth Kumar
Government Advocate (Cr.Side)



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ORDER

This petition has been filed to quash the proceedings in C.C.No.9146 of 2017 on the file of the XIV Metropolitan Magistrate Court, Egmore, in which cognizance was taken for the offences under Section 3 of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

2. The case of the prosecution is that on 30.04.2017 at about 11.00 a.m., when the 2nd respondent who is the Sub-Inspector of Police and other police officials were on patrol duty, they found flex which was installed without any permission nearby Fish Market junction of Arunachalam Nayakkan Road. The averments mentioned in the said flex condemned the action of J.M.Aaroon Ex.MP and to support the Fish market vendors of Chindatripet fish market association. Thereby the petitioners disfigured the open public places.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they were no way connected with the alleged offence made by the prosecution. He further submitted that the explanation of

'Objectionable advertisement' defined under Section 2(b) of Tamil Nadu



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Open Places (Prevention of Disfigurement) Act, 1959 is clearly narrated the circumstances on which penal provision can be invoked. In respect of the offence registered against the petitioners for offences under Section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 will not attract on the allegation made against them in FIR as well as the statements recorded during the investigation. Therefore the charge sheet filed against the petitioners is liable to be quashed. Hence, he prays to quash the proceedings against the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that based on the complaint lodged by the defacto complainant FIR was registered in Crime No.520 of 2017 for the offences under Section 3 of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 and proceeded the investigation and laid final report before the learned XIV Metropolitan Magistrate, Egmore against the petitioners. He further submitted that there are totally 5 accused persons, in which petitioners are arrayed as A1 and A3. A2, A4 & A5 were died.

5. On considering the facts and circumstance, that there is no independent witness on the side of the prosecution to indicate that on the



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alleged date they were caused nuisance, due to the installation of flex board,

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T.V.THAMILSELVI, J.

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and all the witnesses are police and there is no other complaint on the side of the public, and also there is no basic ingredient on the side of the prosecution, therefore the entire proceedings in C.C.No.9146 of 2017 on the file of the XIV Metropolitan Magistrate Court, Egmore is ordered to be quashed.

6. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous petitions are closed.

04.03.2024

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation: Yes/No

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To

1.The Sub-Inspector of Police,
F1-Chindathiri Pettai Police Station,
Chennai.

2.The Public Prosecutor,
High Court of Madras.

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and

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