



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM:

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

CRL.OP No. 28956 of 2022

Crl. MP. No. 17728 & 17730 of 2022

- 1 JAMSHEER
- 2 ANWAR SATHIK

...Petitioners

Vs.

- 1 STATE REP BY
SUB INSPECTOR OF POLICE GUDALUR POLICE
STATION NILGIRIS. CR.NO.1139/2020.

...Respondent

PRAYER : This petition has been filed under Section 482 of Cr.P.C ,to call for the records in STC.No.839/2021 pending before the Judicial Magistrate Gudalur and quash the same.

For Petitioner : Mr.I.Abdul Basith

For R1 : S.Vinoth Kumar

Government Advocate (Crl.side)

**ORDER**

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The petitioners herein filed this petition to call for the records in STC.No.839/2021 pending before the Judicial Magistrate Gudalur and quash the same.

2. The case of the prosecution is that the petitioners pasted a poster with the slogans of "Enforcement Directorate Don't Act As RSS Fronts Nationwide Protest on 11.12.2020 by Popular Front of India/Tamil Nadu, when the Respondent along with his Police parties were on patrol duty around area of Melkudalur, Rajagopalapuram and Vandipettai, found the said poster pasted at Vandipettai Gandhi ground wall without any prior permission hence the respondent herein initiated a Suo-moto criminal prosecution against these Petitioners on the allegation and registered FIR in Cr.No. 1139 of 2020 for the offence under section 4A (1a) r/w 4 B TNOPPD Act, 1959 by the respondent. After investigation the Respondent police have filed a charge sheet before the Judicial Magistrate Court, Gudalur for the offence under Section 4A (1a) r/w 4 B TNOPPD Act, 1959 and the same was numbered as STC No. 839 of 2020 and cognizance was taken. Hence, to quash the charge sheet the petitioners filed this petition.



3. The learned counsel for the petitioners submit that as the respondent is neither the owner or the occupier or the person in management of the alleged property nor the competent person to initiate criminal prosecution as mandated in the said section. As such, the conduct of the respondent in registration of the said FIR and filing of impugned charge sheet against the petitioners is not only amount to abuse of process of law but also in violation to Human rights of the petitioners and contrary to the provisions of the Tamil Nadu open places (prevention of disfigurement) Act, 1959. Further he submits that in the impugned final report there is no seizure of the offending poster as such the present prosecution is without any materials and allowing the prosecution to get on with the Trial will lead to travesty of justice amounts of abuse of process of law. Hence, he prays to allow this petition.

4. Heard both sides.

5. Section 4 of Tamil Nadu open places (prevention of disfigurement) Act, 1959 read as follows:

4. Penalty for unauthorised disfigurement by advertisements. - *Whoever affixes to, or inscribes or exhibits on, any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either*



description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both.

6.As per the said provisions, if any person affixes or inscribes or exhibits on any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both. But the case in hand, no such complaint was received from any individuals in respect of the said alleged poster in the wall but without any complaint the respondent police filed a suo motu FIR. Furthermore, there is no material evidence on the side of the prosecution to show that the petitioners pasted the said alleged poster. Hence, the STC No. 839 of 2020, pending before the Judicial Magistrate Gudalur is hereby quashed.

6. In the result, this petition is allowed. No Costs. Consequentially, connected miscellaneous petition is closed.

07.03.2024

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To



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1. The Public Prosecutor,
High Court, Madras.

2. The Judicial Magistrate Gudalur.

T.V.THAMILSELVI, J.



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