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Crl.O.P.No.30204 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.30204 of 2024
and Crl.M.P.No.17032 of 2024

R.Nithiyanandan

... Petitioner

Vs.

1.State rep by
The Inspector of Police,
V5, Thirumangalam Police Station,
Chennai.
(Crime No.314/2022)

2.R.Baskaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS Act, pleaded to call for the record in order dated 14.11.2024 made in Crl.M.P.No.1 of 2024 in STC.No.2652 of 2023 on the file of the Learned XIII Metropolitan Magistrate, Egmore and set aside the above order thereby permit the petitioner to mark the report under RTI dated 04.10.2024 issued by the Deputy Commissioner of Police Traffic North District, Chennai along with the Photo showing “No Parking Board”.



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For Petitioner : Mr.S.N.Thangaraj

For Respondent : Mr.S.Sugendran,
1 Additional Public Prosecutor

For Respondent 2 : Mr.G.Santhosh Kumar

ORDER

This Criminal Original Petition has been filed to call for the records with regard to order dated 14.11.2024 passed in Crl.M.P.No.1 of 2024 in STC.No.2652 of 2023 on the file of the Learned XIII Metropolitan Magistrate, Egmore and set aside the said order and thereby permit the petitioner to mark the report under RTI Act dated 04.10.2024 issued by the Deputy Commissioner of Police Traffic North District, Chennai along with the Photo showing “No Parking Board”.

2. Heard the learned counsel appearing for the petitioner, learned Additional Public Prosecutor appearing for the respondent/Police and the learned counsel for the private respondent and perused the materials available on record.



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3. The petitioner filed a complaint as against the second respondent before the first respondent police dated 31.10.2022 in Crime No.314 of 2022 for the offence under Sections 294(b) IPC. The first respondent filed a final report before the learned XIII Metropolitan Magistrate, Egmore and the same was taken on file in S.T.C.No.2652 of 2023.

4. The case was taken on file in the year 2023. Thereafter, the prosecution examined all the witnesses and now the matter is posted for arguments. At this stage, the prosecution filed a petition in Crl.M.P.No.1 of 2024 under Section 348 BNSS before the trial court to recall P.W.1 and to mark certain document which was obtained by the defacto complainant through RTI Act. The document which is sought to be marked is noway connected with the case. The offence is only under Section 294(b) IPC and the only point that has to be decided in the case is as to whether the accused uttered filthy language in the public place or not. Now, trial has also completed and the case is posted for arguments.



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5. Since the offence is under Section 294(b) IPC and the document sought to be marked, will not serve the purpose and the same will not affect the merits of the case. Further, the prosecution has filed a petition under Section 348 BNSS., in Crl.M.P.No.1 of 2024 to recall P.W.1 before the trial court and the same was dismissed. The document sought to be marked was issued by the police department only. The prosecution cannot fill up the lacuna at the time of arguments by filing petition after petition. Since the offence is under Section 294(b) of IPC., even prosecution can prove the case without the document to be sought for in the petition.

6. In view of the same, the petition is dismissed. However, prosecution is at liberty to prove its case with all other available materials and proceed further in accordance with law.



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7. In view of the same, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The learned XIII Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
V5, Thirumangalam Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.

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