



Crl.O.P.(MD)No.20233 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20233 of 2024

and

Crl.M.P.(MD)No.12517 of 2024

Sagupar Sathik

... Petitioner

Vs.

1.The State,
Rep. by the Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
(Crime No.573 of 2020)

2.Kalimuthu

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to Crime No.573 of 2020 dated 18.09.2020 on the file of the Inspector of Police, Kenikkarai Police Station, Ramanathapuram District, and quash the same insofar as this petitioner is concerned.



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For Petitioner : Mr.K.Yasar Arafath
For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner / accused No.2, to quash the FIR in Crime No.573 of 2024 dated 18.09.2020 for the alleged offence under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, on the file of the 1st respondent police.

2. The case of the prosecution is that on 18.09.2020, the petitioner and another, being the members of one political party have pasted wall poster raising a demand to the state government to set up separate ministry for non resident tamilians, in one school compound wall without permission of the officials. Hence, an FIR has been registered against the petitioner by the defacto complainant, who is the Sub-Inspector of Police.



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3. The learned counsel appearing for the petitioner would submit that the second respondent lodged a complaint before the first respondent and an FIR has been registered in Crime No.573 of 2024, for the alleged offence under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. He further submitted that the case has been registered as early as on 18.09.2020 and nothing has happened for the poster pasted in the wall. The maximum punishment for the said offence is only three months and hence, the respondent police now cannot file a charge sheet in this case, since it is beyond the period of limitation of six months. The other ground is that no school authority, where the poster was pasted, has lodged a complaint that without their permission, the wall poster was pasted.

4. The learned counsel appearing for the petitioner relied an order passed by this Court dated 08.11.2022 in Crl.O.P.(MD)No.29104 of 2022, wherein this Court has quashed the FIR filed against the accused therein under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, finding that the occupier or the person in



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management of the alleged property nor the competent person to initiate criminal prosecution for disfigurement of their building or wall. He submitted that in this case, it is the Sub-Inspector of Police, who had lodged a complaint and hence, the case against the petitioner herein has to be quashed.

5. The learned Additional Public Prosecutor submitted that the petitioner's plea of limitation may not be sustained and it is for the trial Court to decide the issue when the charge sheet is being laid.

6. The case against the petitioner is lodged by the second respondent on 18.09.2020 and as per the punishment clause, it is only three months and within a period of six months from the date of FIR, the respondent police has to file a charge sheet, which has not been done so. Further, in this case, the complaint has been lodged by the Sub Inspector of Police, who is not a competent person and the complaint is not lodged by the school authorities, who are the owners or occupiers of the management of the alleged property.



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7. In view of the above, this Court quashes the FIR in Crime No. 573 of 2024 dated 18.09.2020 on the file of the respondent police, against the petitioner (A2), and also against the accused No.1, who is also similarly placed person, registered. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
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21.11.2024

To

- 1.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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