



Crl.O.P.(MD)No.20323 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20323 of 2024

and

Crl.M.P.(MD)Nos.12568 & 12569 of 2024

Surendran

... Petitioner

Vs.

State, Rep. by
The Inspector of Police,
Karur Town Police Station,
Karur.
(Crime No.1060 of 2020)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records in S.T.C.No.3712 of 2023, pending before the file of the Judicial Magistrate Court No.I, Karur, in connection with Crime No.1060 of 2020, dated 28.09.2020, for the offence under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, on the file of the respondent Police and quash the same against the petitioner as illegal.

For Petitioner : Mr.S.Vanchinathan



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For Respondent : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal side)

ORDER

The petitioner, who is facing prosecution in S.T.C.No.3712 of 2023 for an offence under Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 [hereinafter referred to as "the Act"], has filed the present quash application.

2. The case against the petitioner is that, on 28.09.2020, the respondent Police found a large wall painting in the public toilet at Karur Bus Stand, measuring 3 feet by 2 feet. The painting contained slogans, praising Bhagat Singh's birthday a revolutionary day, and it included objections, concerning issues such as unemployment, farmers law, and other current issues. The painting was by the Revolutionary Student Youth Front [RSYF], and the petitioner was found to be the person responsible for the painting, leading to the registration of a case.

3. The learned counsel for the petitioner argues that the respondent Police acted based on mere presumption and assumption. There is no



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material evidence linking the petitioner to the wall painting. The de-facto complainant, a Sub-Inspector of Police, and six witnesses cited in the case. Witnesses L.W.1, L.W.2, and L.W.3 state that they saw the poster, which bore the name of the Revolutionary Student Youth Front, Karur, and found the petitioner, convener of the Youth Front, must be responsible for the painting. However, these witnesses not directly identified the petitioner as the person who created the poster. The other witnesses are Observation Mahazar witnesses, who were present when the Observation Mahazar and Rough Sketch prepared, when the banner was removed and seized. None of these witnesses directly connected the petitioner to the alleged offence. Hence, the petitioner seeks the quashing of the proceedings.

4. The learned Government Advocate (Criminal side) for the respondent Police submitted that while on patrol duty, the respondent Police found the poster on the walls of the public toilet at Karur Bus Stand. The poster, 3 feet by 2 feet, depicted Bhagat Singh's image and included slogans criticizing Government policies, an agriculture, education, and unemployment. The petitioner is the Convener of the



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District Association of the Revolutionary Student Youth Front, he was charged with the offence. The Observation Mahazar and Rough Sketch prepared in the presence of witnesses, and the posters seized. After completing the investigation, charge sheet filed, and the learned Government Advocate (Criminal Side) submits that there are only six witnesses, and the trial can be completed within a stipulated time.

5. The learned Government Advocate (Criminal Side) fairly acknowledged that the Municipal Corporation, which owns the public toilet, not lodged any complaint, and no public made complaints regarding the provocation caused by the poster.

6. Considering the submissions and on perusal of the materials on record, this Court finds that under Section 4(1) of the Act, a penalty for unauthorized disfigurement by advertisement can be imposed, subject to the provisions of Section 4-A of the Act. The said Section stipulates that any advertisement affixed to, inscribed on, or exhibited on any public property without the written consent of the property owner or occupier is punishable. In this case, the Municipal Corporation, the owner of the



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public toilet, not filed any complaint against the petitioner. Moreover, there is no complaint from the public about any provocation due to the poster.

7. Considering these factors, the prosecution against the petitioner is found to be unsustainable. Therefore, the proceedings in S.T.C.No. 3712 of 2023, pending before the Judicial Magistrate Court No.I, Karur, against the petitioner are quashed.

8. It is further clarified that, in light of the quashing of the case, the case cannot be referred to or quoted against the petitioner in the future, including in the matters of employment.

9. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No

22.11.2024

Index : Yes / No

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Note:- Issue order copy on 25.11.2024.



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To
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- 1.The Judicial Magistrate No.I,
Karur.
- 2.The Inspector of Police,
Karur Town Police Station,
Karur.
- 3.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
Crl.O.P.(MD)No.20323 of 2024

Dated: 22.11.2024