



Crl.RC.No.974 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.07.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

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Sivarasan @ Sivaraj
S/o. Thiru.Marappan,
No.3/80, Muthalipalayam – Village,
Papankulam – Post,
Avinashi – Taluk,
Tiruppur – District
Pincode – 641 655

...Petitioner / Sole Accused

Vs.

The Sub Inspector of Police,
C-1, Kattoor Police Station,
Coimbatore City,
Coimbatore – Post & District.
(Crime No.304 of 2019)

... Respondent / Complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w. 442 & 528 of BNSS, / 397 r/w.401 & 482 of Cr.P.C. to call for the records in S.T.C.No.3018 of 2019 on the file of the Judicial Magistrate No.II, Coimbatore dated 12.03.2019 and set aside the same as illegal and abuse of process of law.



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For Petitioner : Mr.D.Veerasekharan

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.side)

ORDER

This Criminal Revision Petition has been preferred as against the order dated 12.03.2019 passed in S.T.C.No.3018 of 2019 on the file of the Judicial Magistrate No.II, Coimbatore thereby convicting the petitioner for the offences punishable under Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

2. The case of the prosecution is that on 05.03.2019 the petitioner attempted to affix a poster condemning the Government of India for not releasing the convicts involved in former Prime Minister's Assassination case. Therefore, the respondent police registered a FIR against the petitioner in Cr.No.304 of 2019 for the offence punishable under Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. After completion of investigation the respondent filed a final report and the same has been taken cognizance in S.T.C.No.3018 of 2019 on the file of the Judicial Magistrate No.II, Coimbatore. On 12.03.2019 the trial Court



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convicted the petitioner for the offence under Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 and imposed a fine of Rs.100/-. Aggrieved by the same the present Criminal Revision has been filed.

3. Mr.D.Veerasekharan, the learned counsel for the petitioner, submitted that even according to the case of the prosecution while attempting to affix the poster, the petitioner was caught hold and the FIR was registered against him. However the petitioner did not have any knowledge that the respondent has registered the FIR. That apart the petitioner never appeared before the learned Judicial Magistrate No.II, Coimbatore on 12.03.2019 and never pleaded guilty. Only for statistical purpose the respondent themselves paid the fine of Rs.100/- as if the petitioner appeared before the trial Court and admitted guilty. The learned counsel for the petitioner further submitted that now the petitioner was selected for the post of Sub-Inspector of Police in Tamil Nadu Police Department. In view of the conviction made as against the petitioner he could not be able to join in the said post.



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4. Mr.A.Gopinath, the learned Government Advocate (Crl. Side)

submitted that the petitioner was fully aware of the registration of the FIR and had admitted the same before the Trial Court, where he also pleaded guilty. Therefore the trial Court imposed the fine of Rs.100/- for the offence under Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 and the same does not warrant any interference by this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent.

6. The respondent police registered the FIR in Cr.No.304/2019 for the offence punishable under Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, alleging that the petitioner attempted to affix a poster consisting some allegation as against the Government of India for not releasing the convicts involved in former Prime Minister's Assassination case. However, it is learnt that now all the convicts involved in the said case are released by the Hon'ble Supreme Court of India.



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7. The specific contention of the petitioner is that he had absolutely no knowledge about the registration of the final report filed against him and hence he did not report before the trial Court to admit his guilty. Only for the statistical purpose the respondent police filed the final report and the same has been ordered as if the petitioner appeared and pleaded guilty by payment of fine of Rs.100/-.

8. In support of his contention the learned counsel for the petitioner relied on the judgment of the Madurai Bench of this Court in the case of ***P.Saravanan Vs. State of Tamil Nadu in Crl.R.C.(MD) No.354 of 2016 dated 13.07.2016*** wherein this Court has held as under:

“16. There is no records to show that the accusation as alleged as against the revision petitioner by the Kumbakonam West Police Station has been put to the accused. There is no statement in the case records indicating that the details of the accusation as found in the final report filed by the Sub-Inspector of Police has been explained to the accused. As already stated, as per Section 251 of Cr.P.C., the trial Court is bound to put the accusation to the accused. There is nothing in the trial Court records to show that the plea of the accused has been recorded as nearly as possible in the words of the accused, of course in column No. 11 of the STC register, what was stated in Vernacular Language does not show that Section 251



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of Cr.P.C. has been complied with. In other words, column No. 11 of the S.T.C. Register does not reveal that the details of the accusation has been made against the accused has been put to the accused and the plea of the accused given by him, in his words as nearly as possible has been recorded.

17. In such circumstances, it shall be deemed that the accused has not at all been put to the accused it could be stated that the accused has not been explained to the accusation as against him and his plea has been recorded as nearly as possible in the words of the accused. Therefore, the provisions under Section 251 of Cr.P.C. has been completely violated. Consequently, the conviction recorded under Section 252 of Cr.P.C., which has to follow the plea recorded under Section 252 of Cr.P.C. itself is be vitiated.

18. It is the matter of grave concern that the salutary provisions intended and ensuring fair trial has been completely not followed to punish a person, to slab a person with conviction by a Criminal Code is to serious the matter. At the same time, it will play a havoc in pursuing a conviction his life and it will be a black mark in his career. Therefore, the trial must be fair trial. The trial Court without following the mandatory provisions of Law certainly will not be fair trial. It will be a trial as against Law. The trial proceedings will be invalid. The product of as such a trial will not be followed in the eye of Law. To obvious this kind of difficulties and to afford reasonable opportunity to the accused and confirming the rights of



the accused, the learned Magistrate should put the accusation levelled as against the accused by the prosecution in ambiguous language and also record the plea of the accused whether he plead guilty or no guilty, in which he answered the question. If the language of the Court is not known to him or he is a person having different language, which is not the Court is conversion explain to him the accusation as against him with the assistance of a translator/interpreter. In such circumstances, he will have the full opportunity. In such circumstances, the opportunity of natural justice got followed and the trial will be fair trial and it will be satisfying the mandatory requirement of Section 251 of Cr.P.C. After following such a procedure under Section 251 of Cr.P.C., and if the accused plead guilty and his plea is free, voluntary, unambiguous and unqualified and recording the conviction under Section 252 of Cr.P.C. certainly will be followed. They hoped that the learned Magistrate will take a decision as a guidance while dealing with such a situation in summons cases which will go in a long way to protect the rights of the accused and also enable the prosecution to safeguard the interest of the accused.”

9. The above judgment is squarely applicable to the case on hand. As the petitioner is provisionally selected to the post of Sub-Inspector of Police in the Tamil Nadu Police Department, due to the present conviction, he is facing black mark in his career. That apart it is also a bar for the petitioner



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to apply for any post anywhere in future.

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10. The respondent police also failed to produce any document to show that the petitioner had appeared before the trial Court and pleaded guilty. A perusal of the order dated 12.03.2019 passed by the trial Court also does not reveal anything about the appearance of the accused or payment of fine as alleged by the prosecution. Hence, the order dated 12.03.2019 passed by trial Court cannot be sustained and the same is liable to be set aside.

11. In view of the above stated reasons, the Criminal Revision Case is allowed and the order dated 12.03.2019 made in S.T.C.No.3018 of 2019 on the file of the Judicial Magistrate No.II, Coimbatore, is hereby set aside.

03.07.2025

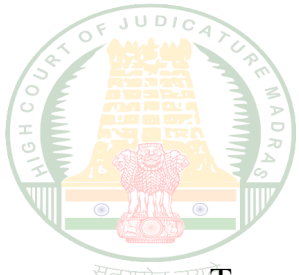
Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

Note to Office: Issue order copy by 04.07.2025

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To
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1. The Judicial Magistrate No.II, Coimbatore
 2. The Sub Inspector of Police,
C-1, Kattoor Police Station,
Coimbatore City,
Coimbatore – Post & District.
 3. The Public Prosecutor
- High Court, Madras



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G.K.ILANTHIRAIYAN, J.

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