



Crl.OP(MD)No.13448 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.13448 of 2024

1. Baskaran
2. Jayabalasubramanian
3. Elanbaruthi @ Eilamparithi
4. Karuppuswamy

... Petitioner/Accused No.2 to 5

Vs.

1. The State of Tamilnadu,
Rep by. the Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.
Crime No.31 of 2021.

.... Respondent No.1 /
Complainant

2. Chellammal

.... Respondent No.2 /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the Charge sheet filed in S.T.C.No.963 of 2022 pending on the file of the learned Judicial



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Magistrate Court, Paramakudi and quash the same as illegal in so far as the petitioners are concerned.

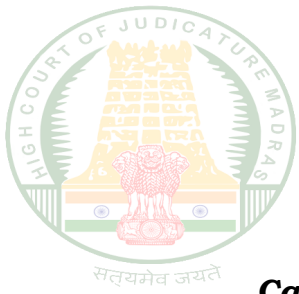
For Petitioners : Mr.R.Ramanujam,
For M/s. Gandhi Associates
For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)

ORDER

Preface:

The present Criminal Original Petition is one such proceeding wherein the petitioners, arrayed as A-2 to A-5 in S.T.C.No.963 of 2022 on the file of the learned Judicial Magistrate, Paramakudi, seek quashment of the final report laid for the alleged offence under Section 4-B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

2. The controversy, though presented as one concerning erection of a name board in Government poramboke land, essentially raises a narrower but decisive legal issue, namely, whether the prosecution materials, even if accepted in their entirety, attract the statutory ingredients of the offence alleged against the petitioners.



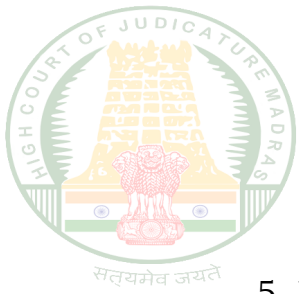
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Case of the Prosecution:

3. The prosecution case, in brief, is that the second respondent, Chellammal, who was functioning as the Block Development Officer of Bogalur Union Panchayat, had received a communication from the President of Muthuvayal Village Panchayat. In the said communication, it was alleged that one K.R.Velu had erected a name board in Government poramboke land comprised in Survey No.287/1A, 1B, 2 situated at Muthuvayal Village. According to the prosecution, the said board was removed by the authorities. It is further alleged that on 06.02.2021, the said K.R.Velu, along with the present petitioners, once again erected a name board in the same place.

4. Based on the communication received from the Village Panchayat President, the second respondent forwarded a complaint / letter to the first respondent police requesting appropriate action. On receipt of the same, the first respondent registered a case in Crime No.31 of 2021 for the alleged offence punishable under Section 4-B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.



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5. Upon completion of investigation, the respondent police filed a charge sheet against K.R.Velu and the present petitioners, arraying the petitioners as A-2 to A-5. The final report was taken on file as S.T.C.No.963 of 2022 by the learned Judicial Magistrate, Paramakudi.

Grounds for Quash:

6. The principal ground urged by the petitioners is that the very reading of the FIR and the final report does not disclose the commission of any offence under Section 4-B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. It is contended that Section 4-A of the Act, on which the prosecution substantially rests, applies only to a “local area” as defined in the statutory Explanation. The said expression, according to the petitioners, is confined to Municipal Corporations and Municipalities, and does not extend to a Village Panchayat.

7. It is further contended that the alleged place of occurrence is admittedly situated in Muthuvayal Village Panchayat and not



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within any Municipal Corporation or Municipality. Therefore, the invocation of the penal provision itself is legally misconceived. The petitioners also contend that no board was seized during investigation. The alleged offending board has not been produced before the Court. There is no mahazar evidencing seizure of the board. There is no photograph, document, or material object to show the nature, contents, size, location, or alleged objectionable character of the board.

8. It is also contended that the FIR mentions the date of occurrence as 06.02.2021, whereas the charge sheet refers to 02.02.2021. According to the petitioners, such discrepancy is not a mere clerical irregularity, but demonstrates the casual and mechanical manner in which the prosecution has been launched. The petitioners further allege that the prosecution is politically motivated. According to them, there are two groups in Muthuvayal Village, one headed by the Village Panchayat President Ravi, and the other headed by K.R.Velu / A-1. Since K.R.Velu had contested against the said Panchayat President, the present case is alleged to have been foisted at the instigation of the said President.



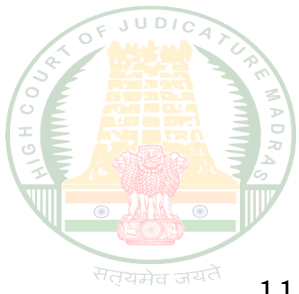
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9. On the above grounds, the petitioners contend that the present case falls within the well-recognised categories laid down by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***¹, particularly the category relating to mala fide prosecution instituted with an ulterior motive for wreaking vengeance.

Submissions on either side:

10. The learned Senior Counsel appearing for the petitioners submitted that the entire prosecution is an abuse of process of law. According to him, even if the prosecution allegations are accepted at their face value, the statutory ingredients of Section 4-B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 are not made out. The learned Senior Counsel would submit that the alleged place of occurrence is a Village Panchayat. Section 4-A of the Act, by its own Explanation, restricts its application to the City of Chennai, City of Madurai, City of Coimbatore, any other Municipal Corporation, or any Municipality constituted under the Tamil Nadu District Municipalities Act, 1920.

¹ 1992 Supp(1) SCC 335



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11. Therefore, according to the learned Senior Counsel, when the alleged occurrence is admittedly not within a Municipal Corporation or Municipality, the very prosecution under the said provision is without jurisdiction and legally unsustainable. It was further submitted that the prosecution has failed to recover the alleged board. No witness speaks about the contents of the board. No witness states whether the board contained words, signs, visible representations, advertisement, objectionable matter, or any material capable of causing disfigurement within the meaning of the Act.

12. The learned Senior Counsel would further submit that merely stating that the accused erected a board would not attract the offence. The law does not punish the mere existence of every board in every place. The prosecution must show that the act complained of falls within the mischief sought to be prevented by the statute.

13. Reliance was placed on the judgment of this Court in ***Jeevanantham and others v. State and others***², to contend that the nature of the offence and the manner in which proceedings are

² 2018 (2) L.W. (CrI.) 606



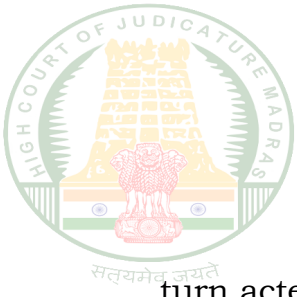
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initiated under the Act have to be strictly scrutinised. The learned Senior Counsel fairly addressed the effect of Section 8 of the Act, which declares that offences punishable under the Act shall be deemed to be cognizable notwithstanding anything contained in the Code of Criminal Procedure. However, according to him, the question of cognizability is different from the question whether the offence itself is made out on facts.

14. The learned Senior Counsel concluded by submitting that summoning an accused in a criminal case is a serious matter, and when the basic material is absent, compelling the petitioners to face trial would be nothing but punishment by process.

15. The learned Government Advocate appearing for the first respondent police opposed the petition and submitted that the disputed board had been erected in Government poramboke land and that the authorities were justified in initiating criminal action. It was submitted that the FIR was registered on the basis of the communication received from the Block Development Officer, who in



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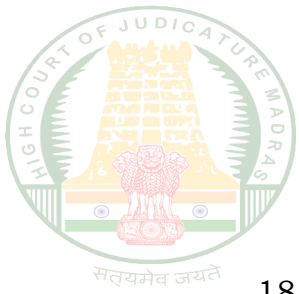
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turn acted on the communication of the Village Panchayat President.

According to the prosecution, the petitioners, along with A-1, had re-erected the board after the same had been removed by the authorities.

16. The learned Government Advocate would submit that the correctness or otherwise of the allegation cannot be decided in a petition under Section 482 Cr.P.C. and that the petitioners must face trial and establish their defence before the learned Magistrate. It was further submitted that Section 8 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 makes offences under the Act cognizable and, therefore, the registration of FIR cannot be faulted on that ground.

17. The learned counsel appearing for the second respondent adopted the submissions of the learned Government Advocate and submitted that public property cannot be allowed to be encroached upon or defaced under the guise of erecting a name board.



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18. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

19. The following point arises for consideration in this Criminal Original Petition:

“Whether the final report in S.T.C.No.963 of 2022 on the file of the learned Judicial Magistrate, Paramakudi, for the alleged offence under Section 4-B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, is liable to be quashed insofar as the petitioners / A-2 to A-5 are concerned?”

Analysis:

20. Before advertng to the facts, it is necessary to remind oneself of the scope of jurisdiction under Section 482 Cr.P.C. At the stage of quashment, this Court does not conduct a roving enquiry into disputed questions of fact. It does not appreciate evidence as if sitting in trial. However, where the uncontroverted allegations in the FIR, complaint, final report and accompanying materials do not



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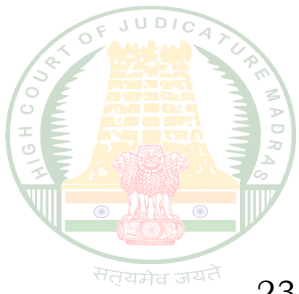
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disclose the commission of any offence, the High Court is not powerless.

21. The celebrated judgment of the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***³, has laid down illustrative categories wherein criminal proceedings may be quashed. Among them are cases where the allegations do not disclose any offence, where the proceedings are manifestly attended with mala fides, or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance.

22. In the present case, the offence alleged is under Section 4-B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. The prosecution case is not one of wall writing, poster pasting, objectionable advertisement, or visible disfigurement of a public place in the conventional sense. The allegation is that a name board was erected in a Government poramboke land in Muthuvayal Village.

³ 1992 Supp(1) SCC 335



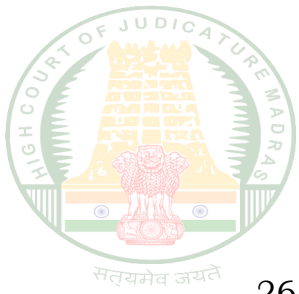
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23. The statutory provision relied upon by the petitioners assumes significance. Section 4-A, as extracted in the petition, prohibits, in any “local area”, the affixing, inscription or exhibition in any place open to public view of any poster, effigy, bill, notice, document, paper or other thing containing words, signs or visible representations, or putting up or fixing of any board supported on or attached to any post, standard, framework or other support upon or over any land, building, wall or structure.

24. Explanation 1 to the provision defines “local area” for the purpose of the section as the area within the limits of the City of Chennai, the City of Madurai, the City of Coimbatore, any other Municipal Corporation constituted under law, or any Municipality constituted under the Tamil Nadu District Municipalities Act, 1920.

25. Explanation 2 defines “local authority” to mean the Municipal Corporation of Chennai, Madurai, Coimbatore, any other Municipal Corporation, or any Municipality constituted under the Tamil Nadu District Municipalities Act, 1920.



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26. The admitted prosecution case is that the alleged occurrence took place at Muthuvayal Village, within a Village Panchayat. It is not the case of the prosecution that the said place falls within the limits of any Municipal Corporation or Municipality. Thus, on the very face of the prosecution materials, the alleged place of occurrence does not fall within the “local area” contemplated under Section 4-A.

27. Penal provisions must be construed strictly. When the legislature has chosen to define the territorial or local application of a provision in a particular manner, the Court cannot expand the definition by interpretative generosity so as to bring within the penal net an area which the statutory Explanation does not include.

28. The prosecution cannot be permitted to contend that a Village Panchayat should also be treated as a local area for the purpose of Section 4-A, when the provision itself gives a specific and exhaustive meaning to the expression “local area”. A criminal



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prosecution cannot be sustained on an expanded administrative understanding of a penal statute.

29. The next aspect concerns the nature of the alleged board. The entire case proceeds on the general assertion that the petitioners, along with A-1, erected a name board. There is no description of the board. There is no statement as to what was written on the board. There is no indication whether it contained any advertisement, political slogan, objectionable matter, or visible representation amounting to disfigurement.

30. The Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 is intended to prevent disfigurement of places open to public view by unauthorised or objectionable writings, posters, advertisements, boards and similar materials. The evil sought to be prevented is disfigurement. Therefore, the prosecution must, at the minimum, place before the Court materials showing that the act alleged falls within the mischief of disfigurement contemplated by the Act.



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31. In the present case, the respondent police have not recovered the alleged board. No material object has been produced. No seizure mahazar relating to the alleged board is relied upon. No photograph of the alleged board has been placed as part of the prosecution material. In the absence of the board itself or any reliable description of its contents, the allegation remains vague and skeletal.

32. The Court is conscious that at the stage of quashment, meticulous proof is not required. But absence of proof is one thing; absence of basic allegation constituting an offence is another. The present case falls into the latter category.

33. A criminal prosecution cannot be allowed to proceed on the mere sentence that “the accused erected a board”. Such an allegation may, in a given case, give rise to civil, revenue, panchayat or administrative action, if the land is Government poramboke or if there is unauthorised occupation. But every alleged erection of a



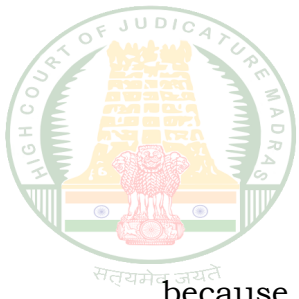
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board in a village land does not *ipso facto* become an offence under the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

34. The distinction between illegality under land administration laws and criminality under a penal statute cannot be blurred. If the allegation is one of encroachment upon Government poramboke land, the competent authority may proceed in accordance with the relevant revenue or panchayat laws. But the present prosecution is not for encroachment. It is specifically for an offence under the Prevention of Disfigurement Act. Therefore, the ingredients of that Act alone must govern the sustainability of the prosecution.

35. The prosecution also suffers from another infirmity. The FIR states that the alleged occurrence took place on 06.02.2021, whereas the charge sheet refers to 02.02.2021. A mere discrepancy in date may not, in every case, be fatal. However, in a prosecution resting on a single alleged act of erecting a board, the date of occurrence is not an insignificant detail. It assumes relevance



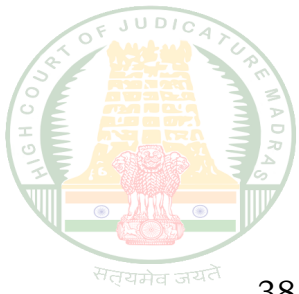
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because the allegation is not supported by seizure, photograph, contemporaneous mahazar or any independent material.

36. When the prosecution does not produce the alleged offending board, does not describe the contents of the board, does not place any material to show disfigurement, and also presents inconsistent dates, the cumulative effect is that the final report lacks the minimum legal foundation required to compel the petitioners to undergo trial.

37. Section 8 of the the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, has also been referred to. It declares that notwithstanding anything contained in the Code of Criminal Procedure, any offence punishable under the Act shall be deemed to be a cognizable offence. This provision may answer the issue whether the police can register an FIR for an offence under the Act. But it does not answer the more fundamental issue whether the facts alleged constitute an offence under the Act.



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38. Cognizability concerns the power of police investigation. Constituent ingredients concern the existence of the offence itself. A provision making an offence cognizable cannot create an offence where the factual allegations do not satisfy the penal provision.

39. Therefore, even assuming that the police were not required to obtain prior permission of the Magistrate for registration of the FIR, the final report must still disclose the offence alleged. In the present case, it does not.

40. The allegation of mala fide has also been pressed into service. The petitioners contend that there are rival groups in Muthuvayal Village, one headed by the Village Panchayat President Ravi, and another headed by K.R.Velu / A-1. It is alleged that the Panchayat President bore animosity against K.R.Velu as he had contested against him in the election.

41. Ordinarily, allegations of political motive or village rivalry are matters of evidence and cannot, by themselves, constitute a



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ground for quashing. However, when the prosecution itself lacks the essential legal ingredients of the offence and the factual background discloses a plausible element of rivalry, the Court is entitled to examine whether continuation of the proceeding would amount to abuse of process.

42. In the present case, this Court is not quashing the proceeding solely on the ground of mala fide. The principal reason is the absence of statutory ingredients and the inapplicability of the provision to the admitted location of the occurrence. The allegation of political rivalry only reinforces the conclusion that the criminal process should not be permitted to be used as a weapon in a local factional dispute.

43. The Hon'ble Supreme Court has repeatedly held that summoning an accused in a criminal case is a serious matter. Criminal law cannot be set in motion as a matter of course. The Magistrate, while taking cognizance, must be satisfied that the



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materials placed before the Court disclose the commission of the offence alleged.

44. In final report quash matters, the Court is entitled to look not merely at the FIR, but also at the materials collected during investigation and the contents of the final report. If those materials, taken at their highest, do not constitute the offence alleged, the proceedings deserve to be quashed.

45. In FIR quash matters, the Court examines whether the FIR itself discloses the ingredients of the offence. In final report quash matters, the scrutiny is slightly broader, because the investigation has concluded and the prosecution is expected to have collected the material necessary to support its accusation. The present case is a final report quash matter. Even after investigation, the prosecution has failed to produce the alleged board or describe its contents.

46. The final report therefore suffers from a fundamental defect. It does not demonstrate how the petitioners' alleged act falls



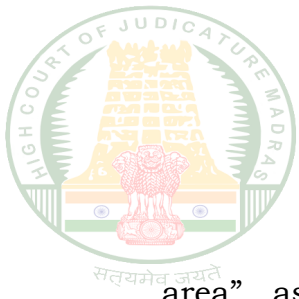
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within Section 4-B of the Act. It does not establish that the place of occurrence is a “local area” within the statutory meaning. It does not set out the nature of disfigurement. It does not identify the offending words, signs, visible representations or contents of the board. It does not produce the board or any equivalent material.

47. In such circumstances, asking the petitioners to face trial would amount to an empty formality. A trial cannot be ordered merely to find out whether an offence may somehow emerge. The criminal process must begin with a legally sustainable accusation. Where such accusation is absent, the process itself becomes the punishment. This Court is therefore of the considered view that the continuation of S.T.C.No.963 of 2022 against the petitioners would amount to abuse of process of Court and would not serve the ends of justice.

48. Insofar as Section 4-A of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, is concerned, the provision is attracted only when the act complained of takes place in a “local



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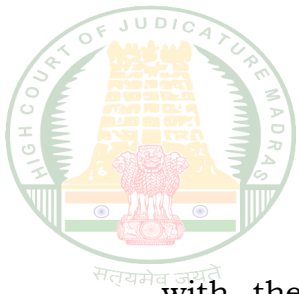
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area” as defined in the Explanation. The admitted place of occurrence is a Village Panchayat. The prosecution has not shown that it falls within a Municipal Corporation or Municipality. Hence, the foundational territorial ingredient is absent.

49. Insofar as the alleged act of putting up or fixing a board is concerned, the prosecution has not stated the nature, contents, words, signs, representations, or objectionable character of the board. Hence, the substantive ingredient of disfigurement or prohibited display is not made out.

50. Insofar as Section 4-B is concerned, the penal consequence can arise only when the underlying prohibited act under the Act is disclosed. Since the underlying statutory ingredients are not made out, the penal invocation under Section 4-B cannot independently survive.

51. Insofar as Section 8 of the Act is concerned, it only declares offences under the Act to be cognizable. It does not dispense



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with the requirement that the alleged facts must constitute an offence. Section 8 cannot cure the absence of ingredients under Sections 4-A / 4-B. Thus, on a section-wise analysis, the prosecution fails at the threshold.

Epilogue:

52. Criminal law is a solemn instrument of public justice. It is not intended to be employed for settling village rivalries, political contests or local administrative disagreements unless the act complained of clearly falls within the four corners of a penal statute.

53. If a Government poramboke land is encroached upon, the State is not helpless. If an unauthorised structure is raised, the competent authority may remove it in accordance with law. If a public place is defaced within the meaning of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, the offender may certainly be prosecuted. But where the statute invoked does not apply to the place of occurrence and where the prosecution does not



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even disclose the nature of the alleged offending board, continuation of criminal proceedings would be legally oppressive.

54. The majesty of criminal justice lies not in permitting every prosecution to proceed to trial, but in ensuring that only legally sustainable prosecutions are allowed to consume the time of the Court and the liberty of citizens.

55. In the result, this Criminal Original Petition is allowed. The proceedings in S.T.C.No.963 of 2022 on the file of the learned Judicial Magistrate, Paramakudi, arising out of Crime No.31 of 2021, are hereby quashed insofar as the petitioners / A-2 to A-5 are concerned.

01.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

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



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