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*Crl.O.P.(MD)No.10176 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|              |            |
|--------------|------------|
| Reserved on  | 31.08.2023 |
| Delivered on | .09.2023   |

CORAM

**THE HON'BLE DR.JUSTICE D.NAGARJUN**

**Crl.O.P.(MD)No.10176 of 2023**  
**and Crl.M.P.(MD) Nos.8073 and 8074 of 2023**

1.Arjunan Sampath @ Arjun Sampath  
2.Nithish Kumar

... Petitioners/  
Accused 1 & 2

Vs.

1. The Sub-Inspector of Police,  
Rajapalayam North Police Station,  
Virudhunagar District.

... Respondent/Complainant

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in STC No.154 of 2021 on the file of learned Judicial Magistrate, Rajapalayam and quash the same.

For Petitioner : Mr.P.Ayyasamy

For Respondent : Mr.E.Antony Sahaya Prabahar  
Additional Public Prosecutor

**ORDER**

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The first petitioner herein is a President of Hindu Makkal Katchi whereas the second respondent is the driver of the vehicle which was driven by him on the day of alleged offence.

2. According to prosecution, on 05.04.2019, when the Sub-Inspector of Police and his police party while on duty in order to oversee the implementation of Code of Conduct in Tenkasi Parliament Reserve Constituency No.37, at about 6.30 p.m., they found accused No.1 in a vehicle at Madasamy Koil Street in a Tempo van bearing registration no. TN 66 W 8950 being driven by the petitioner No.2/accused no.2. They were canvassing in respect of seeking vote for their political party. The police have enquired the driver and he has informed that there was no prior permission from the Assistant Election Officer thereby violated the Code of Conduct. The vehicle was seized and handed over to the police. Subsequently, investigation was completed and charge sheet was also filed on 30.04.2019 alleged that the petitioners have committed offence

under Section 4AA(1-a) of Tamil Nadu Open Places (Prevention of



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Disfigurement) Act, 1959.

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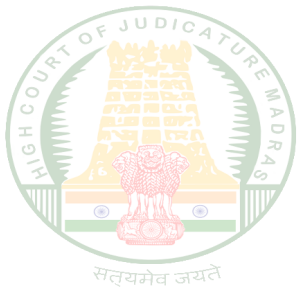
3. It is submitted by learned counsel for the petitioners that even if entire charge sheet is accepted on its face value all the witnesses are hearsay and none of the witnesses have examined, there are no allegations to show that the petitioners have committed the alleged offence, therefore sought for quashment of STC No.154 of 2021.

4. Heard both sides and perused the record.

5. Section 4AA(1-a) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, runs as under:-

“Prohibition of pasting of posters and fixing of thatty boards, etc. on motor vehicle:- (1) Notwithstanding anything contained in section 3,3A,4 or 4-A or any other provision of this Act, or any law for the time being in force, on person shall-

(a) affix to inscribe or exhibition, any motor vehicle, any poster or any effigy, or any bill, notice, document, paper



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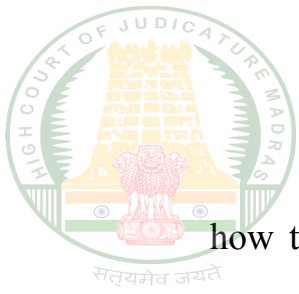
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or other thing containing any words, signs or visible representation; or"

6. In order to prove the offence against the petitioners, the prosecution is expected to prove that the petitioners have exhibited or inscribed or affixed on the motor vehicle any poster, effigy, bill or notice, pamphlets containing words or visible representations. Perhaps, the intention of the police is that the petitioners have committed offence by fixing the poster on the vehicle bearing registration no.TN 66 W 8950 in which the first petitioner was canvassing which was being driven by the second petitioner. Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, was enacted in order to see that the public places are not disfigured by pasting notices, bills, posters, etc., either for commercial or political or for any other purposes. Even if such posters, bills, notices were pasted to the motor vehicle, it also attracts the offence under Section 4AA(1-a) of the Act.

7. In the case on hand, the prosecution has not produced any poster or banner or bill which allegedly affixed to the motor vehicle belonging to the prosecution and also not filed any photographs at least to see as to

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how the petitioners have violated the Code of Conduct and committed offence under Section 4AA(1-a) of the Act. In fact, on closely going through the charge sheet there is no allegation or whisper that the case is being registered against the petitioners for affixing the posters, bills etc., to the vehicle belonging the second petitioner. However, the allegation made against the petitioners is that the petitioners are affixing the posters, bills to the vehicles without taking prior permission. Police have not mentioned under which provisions/rules the permission is required to be obtained for the vehicle engaging in canvassing during the course of parliament election.

8. Therefore, the offence under Section 4AA(1-a) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 shall not sustain against the petitioners and accordingly, this criminal original petition is allowed and the proceedings in STC No.154 of 2021 on the file of learned Judicial Magistrate, Rajapalayam are hereby quashed. Consequently, the connected miscellaneous petitions are closed.



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Index : Yes / No  
Neutral Citation: Yes/No

PKN/mvs.

To

1. The Sub-Inspector of Police,  
Rajapalayam North Police Station,  
Virudhunagar District.

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2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**DR.D.NAGARJUN,J**

PKN/mvs.



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**Pre-delivery order made in**  
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