



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2017

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THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.5227 of 2017

and

CrI.M.P. (MD) Nos.3688 and 3689 of 2017

Arif Basha

: Petitioner

Vs.

1.The State rep. by,
The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District,
(Crime No.84 of 2014).

2.Tr.H.M.Kulanthaisamy

: Respondents

Prayer:Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records of the final report in connection with S.T.C.No.1098 of 2017 on the file of the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District, as against the petitioner and quash the same.

For Petitioner : Mr.S.Palani Velayutham

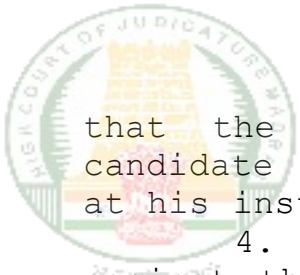
For Respondent No.1: Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

O R D E R

On the complaint lodged by the Tahsildar, the respondent police registered a case in Crime No.84 of 2014 and after completing the investigation, has filed a charge sheet in S.T.C.No.1098 of 2017 before the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District, for offences under Sections 171(H) of the Indian Penal Code, 3 of Press Regulation Act and Section 127(A) of Representation of the Peoples Act, 1951 against three accused, challenging which, A-1 is before this Court.

2. Heard Mr.S.Palani Velayutham, learned counsel for the petitioner and Mr.A.P.Balasubramani, learned Government Advocate (Criminal side) for the first respondent.

3. The learned counsel for the petitioner submitted that the petitioner had nothing to do with the offending pamphlet and



that the police have not even enquired with the concerned candidate of the SDPI Party as to whether the pamphlet was issued at his instructions.

4. In the considered opinion of this Court, the allegation against the petitioner is that he was found distributing certain pamphlets without the name of the printer as it is required by the Election Law. Since there are *prima facie* materials for trial, the same cannot be quashed. Hence, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

5. However, taking into consideration the fact that the petitioner is an advocate by profession, this Court directs the petitioner to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined in chief, as held by the Hon'ble Supreme Court in **Vinod Kumar vs. State of Punjab** reported in **2015 (1) Scale 542**, in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If he absconds, a fresh First Information Report can be registered against him under Section 229-A of the Indian Penal Code. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence. The Trial Court is directed to complete the trial, within a period of six months from the date of receipt of a copy of this order, provided the petitioner co-operates with the Trial Court by cross-examining the witnesses on the day they are examined in chief.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Ambasamuthiram, Tirunelveli District.

2.The Inspector of Police, Kallidaikurichi Police Station,
Tirunelveli District.

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

+1 cc to M/S.S.Palanivelayutham, Advocate in SR.No. 54483

Sm

CSL/BS/SAR-IV/10.05.2017 : 2P/5C

Order made in

CRL.O.P. (MD) No.5227 of 2017

Dated:- **27.04.2017**