



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 19.09.2019**

**CORAM:**

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

**Crl.O.P. (MD) .No.13058 of 2019**

**and**

**M.P. (MD) No.8041 of 2019**

Kamalakannan

..Petitioner/Accused No.2/Accused No.2

Vs.

1. The Inspector of Police  
Velayuthampalayam Police Station  
Velayuthampalayam  
Karur District

..1<sup>st</sup> Respondent/Complainant/  
Complainant

2.J. Vijay Anand  
S/o.Jesudhas  
Co operative Sub Registrar  
Static Surveillance Team- III  
134, Aravakurichi Assembly Constituency  
Karur

..Respondent/Defacto  
Complainant/Defacto Complainant

**PRAYER:** This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in pursuant to the charge sheet in S.T.C.No.1719 of 2019 on the file of the Judicial Magistrate No.II, Karur in Crime No.263 of 2016 on the file of the 1st Respondent, Dated 15.05.2016 and quash the same as far as the petitioner

For Petitioner : Mr.S.Gokulraj

For Respondent : Mr.K.Suyambulinga Bharathi  
No.1 Government Advocate(Crl.Side)

**O R D E R**

This quash petition is filed to quash the criminal proceedings in S.T.C.No.1719 of 2019 on the file of the Judicial Magistrate No.II, Karur, thereby having been taken cognizance for



the offences under Sections 143 and 188 of I.P.C. as against the petitioner.

2.The case of the prosecution is that on 14.05.2019 at about 9.00 a.m., while the second respondent Static Surveillance Team-III, 134, Aravakurichi Assembly Constituency, had found that nearby Thalavapalyam bus stop, the AIADMK party members accused 1 to 3 along with 300 members went to the election campaign by violating the Election code of conduct. Hence he lodged a complaint before the first respondent police and first respondent police registered a case in Crime No. 263 of 2016 for offences under Sections 143 and 188 of I.P.C and the case was taken cognizance by the Judicial Magistrate No.II, Karur in S.T.C.No.1719 of 2019. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offences as alleged by the prosecution. Due to political enmity, a false case has been foisted. The petitioner has not violated any rules and model code of conduct relating to election. He would further contend that the charge against the petitioner was not attracted, since there is no allegation against the petitioner that he has violated the election rules/model code of conduct. Further, he would contend that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioners, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioner unnecessarily would not have put them an ordeal trial. Therefore, he prayed for quashment of the criminal proceedings.

4.Per contra, the learned Government Advocate(Crl.Side) would submit that there are specific allegations as against the petitioner to proceed with the trial. Further, he would submit that the petitioner is a habitual offender by committing this kind of crimes. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) appearing for the respondents/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioner is concerned, the first respondent levelled the charge under Sections 143 and 188 of I.P.C. as against the petitioner. It is seen from the charge that on 14.05.2019 at about 9.00 a.m., while the second respondent Static Surveillance Team-III, 134, Aravakurichi Assembly Constituency, had found that nearby Thalavapalyam bus stop, the AIADMK party members accused 1 to 3 along with 300



members went to the election campaign by violating the Election code of conduct. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charge against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial. Section 188 reads as follows:

"188. Disobedience to order duly promulgated by public servant - Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

7.Considering the above, this Court finds that for the simple charge, the petitioner cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioner.

8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in S.T.C.No.1719 of 2019 on the file of the Judicial Magistrate No.II, Karur, is quashed as against the petitioner herein. Consequently, connected miscellaneous petition is closed.

Sd/-

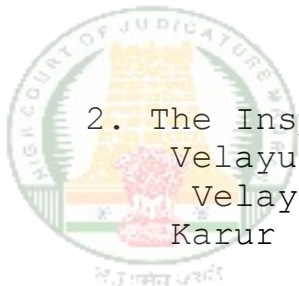
Assistant Registrar (AD II)

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Sub Assistant Registrar (CS)

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To

1. Judicial Magistrate No.II, Karur



2. The Inspector of Police  
Velayuthampalayam Police Station  
Velayuthampalayam  
Karur District

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

**Crl.O.P. (MD) .No.13058 of 2019  
and  
Crl.M.P. (MD) No.8041 of 2019  
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KM/ (23.10.2019) 4P 4C