



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 22.10.2019

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. O.P. (MD) NO. 17163 OF 2014

M.Karunakaran

.. Petitioner

- Vs -

1. The Chief Election Commissioner
Vadapalani, Chennai.
2. The State, rep. by
Secretary , Ullatchi Thurai
Fort St. George, Chennai.
3. The District Collector
Pudukottai District.
4. The Election Commissioner
Pudukottai Municipality
Pudukottai District.
5. The Superintendent of Police
Pudukottai District.
6. The Inspector of Police
Pudukottai Town Police Station
Pudukottai.
7. Election Commission of India
New Delhi.
(suo motu impleaded as per
order dated 28.10.14)

.. Respondent

Criminal Original Petition filed u/s 482 of the Code of Criminal Procedure, seeking a direction to the respondents to register a FIR on the basis of the complaint given by the petitioner dated 4.9.14.

For Petitioner : Mr. K.R.Laxman

For Respondents : Mr. K.Chellapandian, AAG, assisted by
Mr. V.Neelakandan, APP for RR-1 to 3, 5 & 6
Mr. P.Mahadevan for R-4
No appearance for R-7



ORDER

The present petition has been filed by the petitioner for a direction to the respondents to register the case on the basis of the complaint given by the petitioner, dated 4.9.14.

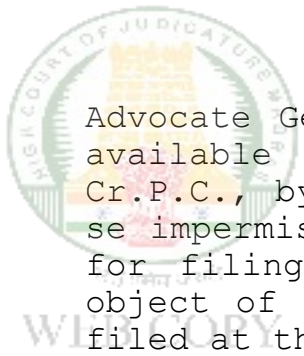
2. It is the case of the petitioner that with regard to the filing of nomination for election during the year 2014, one of the political party created nuisance and also threatened the other party members not to file nomination of which the party to which the petitioner belongs was also included. The petitioner was threatened by the members of the other political party, which created the nuisance and for not filing the nomination, bribe was also offered. It is the case of the petitioner that the democratic process of election was sought to be defeated by the acts of the other political party and, therefore, the petitioner approached the Election Commission for taking appropriate action and also sent representation in this regard. Since no action has been taken on the complaint given by the petitioner, the petitioner is constrained to approach this Court by filing the present petition.

3. The averments made in the petition as also the grounds stated therein are reiterated by the learned counsel appearing for the petitioner, who prays for appropriate direction to the respondents to register a case on the basis of the complaint of the petitioner and investigate the same.

4. Per contra, Mr.Chellapandian, learned Addl. Advocate General appearing for respondents 1 to 3, 5 and 6 submitted that the present petition filed by the petitioner is not maintainable in view of the decision of a Division Bench of this Court in the case of G.Prabhakaran - Vs - The Superintendent of Police, Thanjavur (2018 (2) LW (Crl.) 489). Learned Addl. Advocate General further submitted that an enquiry was conducted on the basis of the complaint given by the petitioner, in which the petitioner did not participate actively inspite of opportunities granted to him and on the basis of the evidence and materials available, the enquiry officer held that the allegations raised in the complaint are baseless and also exaggerated and no case was made out. In view of the non-compliance with the provisions of the Criminal Procedure Code, more especially, Section 154 (3) and 156 (3), the present petition filed is not maintainable.

5. This Court heard the learned counsel appearing on either side and also perused the materials available on record as also the decision relied on by the learned Addl. Advocate General.

6. From a careful analysis of the ratio laid down by the Division Bench in Prabhakaran's case (supra), this Court is of the view that the contention advanced by the learned Addl.



Advocate General merits acceptance. Without exhausting the remedy available u/s 156 (3) Cr.P.C., resorting to the remedy u/s 482 Cr.P.C., by invoking the inherent jurisdiction of this Court is per se impermissible. Allowing such an act would open the flood gates for filing such petitions and would defeat the very purpose and object of Section 156 (3) Cr.P.C. Therefore, the present petition filed at the instance of the petitioner is not maintainable.

7. Further the grounds raised in the petition are not made out in view of the fact that the enquiry report with regard to the alleged occurrence clearly reveals that the petitioner has not partaken in the enquiry and has refused to co-operate in the enquiry proceedings. In such circumstances, the petitioner cannot be permitted to knock on the doors of this Court for this Court to exercise its inherent jurisdiction and come to the aid of the petitioner.

8. On an overall analysis of the materials on record coupled with the enquiry report and the ratio laid down by the Division Bench in Prabhakaran's case (supra), this Court is of the considered opinion that the present case lacks merit and also not maintainable.

9. Accordingly, for the reasons aforesaid, this criminal original petition is dismissed as devoid of merits and not maintainable.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1. The Chief Election Commissioner
Vadapalani, Chennai.

2. The Secretary
Government of Tamil Nadu
Ullatchi Thurai
Fort St. George, Chennai.

3. The District Collector
Pudukottai District.

4. The Election Commissioner
Pudukottai Municipality
Pudukottai District.

<https://hcservices.ecerts.gov.in/hcservices/>



5. The Superintendent of Police
Pudukottai District.

6. The Inspector of Police
Pudukottai Town Police Station
Pudukottai.

7. Election Commission of India
New Delhi.

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

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-93605[F] dated 22/10/2019)

CRL. O.P. (MD) NO. 17163 OF 2014
22.10.2019

VB(05.11.2019) 4P : 10C