

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

DATED : 25.09.2019

CORAM:

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYANCrI.O.P. (MD) .No.13349 of 2019andCrI.M.P. (MD) Nos.8181 and 8182 of 2019

1.P.Jegan

2.N.P.Raja

3.Raj

..Petitioners/Accused Nos.1 to 3

Vs.

1.State represented by,

The Sub Inspector of Police,
Vilathikulam Police Station,
Tuticorin District.(In Crime No.84 of 2014) ... 1st Respondent/Complainant

2.R.Jeganathan

...2nd Respondent/Defacto Complainant

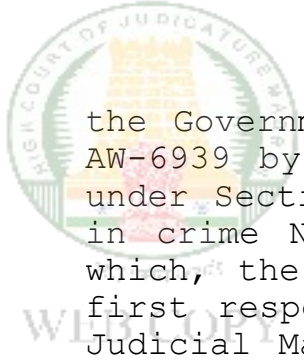
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the proceedings in C.C.No.333 of 2014 on the file of the District Munsif Cum Judicial Magistrate, Vilathikulam in so far as the petitioners herein and quash the same.

For Petitioners : Mr.N.Anandakumar

For 1stRespondent : Mr.K.Suyambulinga Bharathi
Government Advocate (CrI. Side)**O R D E R**

This quash petition is filed to quash the criminal proceedings in C.C.No.333 of 2014 pending on the file of the District Munsif Cum Judicial Magistrate, Vilathikulam thereby having been taken cognizance for the offences under Section 188 of IPC r/w Section 109 of IPC as against the petitioners.

2.The case of the prosecution is that on 24.03.2014 at about 04.50 p.m, the 2nd respondent being an Election Flying Squad Officer, Thasildar, Ettayapuram, Tuticorin District, found that the Tuticorin Member of Parliament (MP Candidate) namely Jegan, who is the first petitioner herein and others without getting prior permission from



the Government used TATA SUMO GOLD car bearing Registration TN 69-AW-6939 by violating the election rules and committed the offence under Sections 171 H and 188 of IPC and a case has been registered in crime No.84 of 2014 on the file of the first respondent, in which, the petitioners are arrayed as A1 to A3. Subsequently, the first respondent laid charge sheet before the District Munsif cum Judicial Magistrate, Vilathikulam. Thereafter, the case was taken cognizance by the District Munsif Cum Judicial Magistrate, Vilathikulam in C.C.No.333 of 2014 for the offences under Sections 171 H and 188 of IPC r/w Section 109 of IPC @ 188 of IPC r/w Section 109 of IPC. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioners would submit that the first petitioner herein has contested in the parliamentary election as the candidate. He would further submit that the petitioners have not committed any offences as alleged by the prosecution. Due to political enmity, a false case has been foisted. The petitioners have not violated any rules and model code of conduct relating to election. He would further contend that the charge against the petitioners were not attracted, since there is no allegation against the petitioners that they have 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 petitioners 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 petitioners to proceed with the trial. Further, he would submit that the petitioners are 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 petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioners are concerned, the first respondent levelled the charge under Section 188 r/w Section 109 of I.P.C. as against the petitioners. It is seen from the charge that on 24.03.2014 at about 4.50 p.m, the 2nd respondent being an Election Flying Squad Officer, Thasildar, Ettayapuram, Tuticorin District, found that the Tuticorin Member of Parliament (MP Candidate) namely Jegan, who is the first petitioner herein and others without getting prior permission from the Government used TATA SUMO GOLD car bearing Registration TN 69-AW-6939 by violating the election rules. Except the official witnesses, no one has spoken about the occurrence and no one was



examined to substantiate the charge against the petitioners. 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 petitioners cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioners.

8. In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in C.C.No.333 of 2014 pending on the file of the District Munsif Cum Judicial Magistrate, Vilathikulam, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

vsg

To

1. The District Munsif Cum Judicial Magistrate,
Vilathikulam.

2. The Sub Inspector of Police,
Vilathikulam Police Station,
Tuticorin District.



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

+1CC TO MR.V.MALAIYENDRAN, Advocate Sr. No.89579

Crl.O.P. (MD) .No.13349 of 2019
and
Crl.M.P. (MD) Nos.8181 and 8182 of 2019
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SGS (CO)
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