



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.10.2019
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.5469 of 2015

and

MP(MD)No.1 of 2015

L.Mookiah ... Petitioner / Accused

Vs.

E.Pulamadan,
Electoral Registration Officer,
135, Andipatty Assembly Constituency,
Andipatty, Theni District. ... Respondent / Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the private complaint in C.C No.14 of 2006 on the file of the District Munsif cum Judicial Magistrate Court, Andipatty and quash the same.

For Petitioner : Mr.Sulthan Bhasha
for M/s.Ajmal Associates
For Respondent : Mr.K.K.Senthil
for Mr.Niranjana Rajagopalan
standing counsel
for Election Commission of India

ORDER

The petitioner is facing prosecution in C.C No.14 of 2006 on the file of the District Munsif cum Judicial Magistrate Court, Andipatty. The petitioner is an office bearer of a political party. He had forwarded applications for enrolling certain persons as voters in Andipatty Assembly Constituency. It appears that some of the applications forwarded by the petitioner contained false particulars. Therefore, the respondent officer instituted the impugned private complaint. To quash the same, the petitioner has filed this criminal original petition.

2.Heard the learned counsel appearing for the petitioner and the learned Standing counsel for the respondent.

3.It is not in dispute that a batch of similar complaints filed by the respondent herein were quashed by a learned Judge of this Court vide order dated 04.02.2016 in Crl OP(MD)Nos.8642 of 2010 and etc batch. The learned Judge in the said case held as follows :



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"All these petitions seek quash of prosecution lodged by way of private complaints by Electoral officers for offences alleged under the Representative of the People Act, 1950, in that these petitioners, in submitting forms a plenty in bulk informed false and erroneous particulars towards causing false registration in the electoral roles and thereby committed offences.

2.The prosecution case is that at the request of political parties, the Election Commission of India had permitted them to submit bulk applications for inclusion of names in the electoral rolls. While doing so, authorised persons were required to make a declaration informing that the applicants were ordinary residents in the addresses shown and that they were aware that any false representation would visit them with prosecution for offence under Section 31 of the Representation of the People Act, 1950.

3.In all the cases, all that we have in support of accusation of commission of offence under Section 31 of the Representation of the People Act, 1950 is that upon enumerators visiting the addresses given persons informed as ordinarily resident were not available. Therefrom and without any corroborative material, prosecution requires the Court to presume that such offence stands committed. Clearly, the offences can be brought home only by examining persons residing at/familiar with the area of the addresses given. Worse is the charge of commission of offences such as forgery, preparation of false documents, cheating etc., prosecution having alleged offences under Sections 416,419,463,464,471 and 474 IPC. Here again, the Court is called upon to presume the commission of such offences in the absence of any material. Bulk applications are made in the hundreds. It certainly cannot be the prosecution case that the person forwarding the same were the ones who had carried out falsification of documents in respect of applications forwarded by them. The prospects of conviction absolutely is bleak.

4.The Election Commission would be well advised to require persons submitting bulk applications to produce copies of documents relating to identity and address in support of each application. Requirement of certifying such copies to be true may be placed upon persons forwarding the applications. It is only then that there would be some possibility of the prosecution meeting with success.

5.These petitions shall stand allowed and the proceedings in C.C.Nos.626, 373, 384, 382, 383, 375, 374, 564 of 2005, 2, 3, 4 of 2006, 235 of 2005, 161 of



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CrI OP(MD)No.5469 of 2015

2006, 184, 2007, 175 of 2006, 11 of 2006, 310 of 2007, 12 of 2006, 13 of 2006, 308 of 2007, 309 of 2007, 64 of 2006, 66 of 2006, 65 of 2006, 3 of 2006, 320 of 2007, 189 of 2005, 188 of 2005, 322 of 2007, 312 of 2007, 2 of 2006, 187 of 2005, 184 of 2005, 186 of 2005, 1 of 2006, 317 of 2007, 316 of 2007, 185 of 2005, 311 of 2007, 315 of 2007, 321 of 2007, 184 of 2007, 186 of 2007, 189 of 2005, 187 of 2005, 188 of 2005, 9 of 2006, 4 of 2006 and 3 of 2006 shall stand quashed."

4.The case on hand is similar. Therefore, respectfully following the aforesaid order passed by this Court, the impugned prosecution stands quashed.

5.This criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

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/ /2020

Sub Assistant Registrar(CS)

Skm

To

1.The District Munsif cum Judicial Magistrate Court,
Andipatty.

CrI OP(MD)No.5469 of 2015

and

MP(MD)No.1 of 2015

15.10.2019

MK (29.01.2020) 3P 2C