



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P(MD).No.15759 of 2019

and

Crl.M.P(MD) No.9335 of 2019

R.Srinivasan

... Petitioner

Vs.

1. The Inspector of Police
Avaniyapuram Police Station
Madurai City
(Crime No.346/2019)

2. Panjavarnam
Assistant Election Officer
34 Virudhunagar Parliamentary
Thirupparankundram Assembly Constituency
and District Supply and Consumer
Protection Officer
Madurai

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the proceedings of the First Information Report in Crime No.346 of 2019 on the file of the Avaniyapuram Police Station, Madurai City and quash the same as against the petitioner.

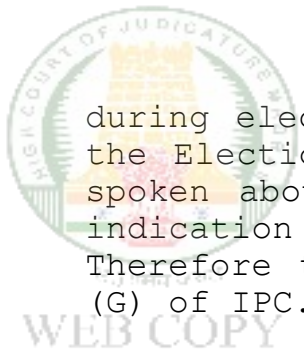
For Petitioner : Mr.R.Senthil Kumar

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate(Crl.Side)

O R D E R

This Criminal Original petition has been filed quash the First Information Report in Crime No.346 of 2019 on the file of the Avaniyapuram Police Station, Madurai City

2. On the complaint lodged by the second respondent for the offence under Section 171(G) of IPC, First Information Report came to be registered for the allegation that the petitioner made defamation about the opposition parliamentary election candidate



during election, which is in violation of election rules issued by the Election Commission. Further alleging that the petitioner has spoken about Hindu Women with Kungumam on their forehead is the indication of their wish to unlawful sexual relationship. Therefore the first respondent registered a case under Section 171 (G) of IPC. Section 171(G) of IPC reads as follows:

"171-G. False statement in connection with an election- Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of act which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine"

3. Admittedly the offence under Section 171(G) is non-cognizable offence. Therefore it hit under Section 155(2) of Cr.P.C. It is relevant to extract Section 155(2) of Cr.P.C:

"No police officer shall investigate a non cognizable case without the order of a Magistrate having power to try such case or commit the case for trial"

4. No police officer can investigate the non cognizable offence without an order of Magistrate having before trying the said case or commit the case for trial. The present complaint is registered for offence under Section 171(G) of IPC. It is non cognizable offence and as such the first respondent has no power to investigate the non cognizable offence. Further the First Information Report was registered on 09.04.2019 and till today the First Information Report is not sent to the concerned Court. When the petitioner filed copy application for certified copy of the First Information Report registered in Crime No. 346 of 2019 was returned for the reason that the First Information was not yet received by the Court by an order dated 12.09.2019 on the file of the learned Judicial Magistrate No.VI, Madurai. It is in violation of the procedure laid down under the Criminal Procedure code. On this ground First Information Report cannot be sustained as against the petitioner.

5. Accordingly this Criminal Original Petition is allowed the First Information Report in Crime No.346 of 2019 is hereby quashed. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)



To;

1. The Judicial Magistrate No.VI, Madurai.

2. The Inspector of Police
Avaniyapuram Police Station
Madurai City

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

+1 CC to M/s.R.SENTHIL KUMAR, Advocate (SR-95260[F] dated
31/10/2019)

Cr1.O.P(MD).No.15759 of 2019
and
Cr1.M.P(MD) No.9335 of 2019

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JMN(15.11.2019) 3P : 5C