



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

CORAM:

WEB COPY

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

Crl.O.P.(MD)No.22490 of 2018

and

CRL.M.P(MD).No.10558 of 2018

Kodeeswaran

... Petitioner/Accused No.3

Vs.

1.The State of Rep by
The Inspector of Police,
Alanganallur Police Station,
Madurai District.
(Crime No.215 of 2016)

...1st Respondent/Complainant

2.Mr.K.P.Murugesan
Executive Magistrate,
Flying Squad "A" Team,
Sholavandan Assembly Constituency,
Madurai District.

...2nd Respondent/Defacto
Complainant

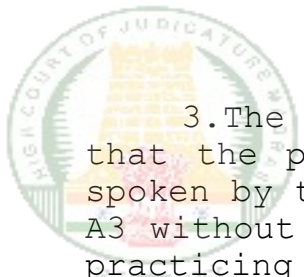
PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the First Information Report dated 12.05.2016 in Crime No.215 of 2016 on the file of the first respondent and quash the same as illegal and devoid of merits as against the petitioner.

For Petitioner : Mr.M.Jegadeesh Pandian
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This petition has been filed to quash the Crime No.215 of 2016 on the file of the first respondent.

2.The case of the prosecution is that on 15.05.2016, at about 14.00 hrs, the second respondent while he is in Flying Squad duty in Sholavandan Assembly Constituency, based on the phone call at about 11.10 a.m, he went to Ayyur Colony and found that two persons namely Ayyavu and Sankar distributed cash to the voters. Hence, the second respondent lodged a complaint before the first respondent police. The first respondent registered a case in Crime No.215 of 2016 for the offence under Sections 171 (E) and 188 of IPC.



3.The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A3 and his role was not at all spoken by the arrested accused persons. But, his name was figured as A3 without any basis. Further he submitted that the petitioner is a practicing Advocate. Due to previous enmity between the petitioner and the first respondent, false case has been foisted as against the petitioner. Further, he would contend that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioner, 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 case in Crime No.215 of 2016 .

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 first respondent/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 Section 188 of I.P.C. as against the petitioner. It is seen from the charge that on 15.05.2016, at about 14.00 hrs, the second respondent while he is in Flying Squad duty in Sholavandan Assembly Constituency, based on the phone call at about 11.10 a.m, he went to Ayyur Colony and found that two persons namely Ayyavu and Sankar distributed cash to the voters. 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 trends to cause danger to human life, health or



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 case in Crime No.215 of 2016 on the file of the first respondent, is quashed as against the petitioner herein. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

dss

dss

To

1.The Inspector of Police,
Alanganallur Police Station,
Madurai District.

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

+1 CC to M/s.M. JEYADEESH PANDIAN, Advocate (SR-102194[F] dated 28/11/2019)

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and
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SMA/17/12/2019/3P/4C