



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.16264 of 2019

and

Crl.M.P. (MD) No. 9675 of 2019

WEB COPY

1. Ramaraj

2. Raja Arunmozhi

..Petitioners/2&3 Accused

Vs.

1.The Sub Inspector of Police
South Police Station
Rajapalayam
Virudhunagar District
(Crime No.246/2014)

2.M.Muthaiah
Election Flying Squad
Rajapalayam
Virudhunagar District

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pursuant to the charge sheet in STC No.2190 of 2019 on the file of the Judicial Magistrate No.II, Srivilluputhur in Crime No.246 of 2014 on the file of the Sub Inspector of Police, South Police Station, Rajapalayam, Virudhunagar District and quash the same as far as the petitioner's concern.

For Petitioners : Mr.R.Ragavendran

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

O R D E R

This quash petition is filed to quash the criminal proceedings in STC No.2190 of 2019 on the file of the Judicial Magistrate No.II, Srivilluputhur, thereby having been taken cognizance for the offences under Sections 136 Representation of People Act 1950 r/w.143 and 188 @ 188 of IPC as against the petitioners.



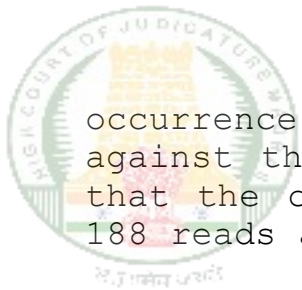
2.The case of the prosecution is that on 17.04.2014 at about 23.30 hrs, while the second respondent was on duty near Rajapalayam Duraisampuram, Senkottuvan Circle, the petitioners who belong to political party conducted came in a car bearing Reg.No. TN 59 AJ 3299 and TN 45 AR 8170, against the election conduct rules, canvassed people to vote for TV Box. Based on the complaint given by the second respondent, the first respondent registered a case in Crime No.264 of 2014 for the offences under Sections 136 Representation of People Act 1950 r/w.143 and 188 @ 188 of IPC and the same was taken cognizance by the learned Judicial Magistrate No.II, Srivilluputhur in STC No. 2190 of 2019. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioners would 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 would submit that there are specific allegations as against the petitioners to proceed with the trial. 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 appearing for the respondents/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioners is concerned, the first respondent levelled the charge under Sections 136 Representation of People Act 1950 r/w.143 and 188 @ 188 of IPC as against the petitioners. It is seen from the charge that on 17.04.2014 at about 23.30 hrs, while the second respondent was on duty near Rajapalayam Duraisampuram, Senkottuvan Circle, the petitioners who belong to political party conducted came in a car bearing Reg.No. TN 59 AJ 3299 and TN 45 AR 8170, against the election conduct rules, canvassed people to vote for TV Box. 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 trends 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 STC No. 2190 of 2019 on the file of the learned Judicial Magistrate No.II, Srivilluputhur, is quashed as against the petitioners herein. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Judicial Magistrate No.II, Srivilluputhur

2.The Sub Inspector of Police

South Police Station

Rajapalayam

Virudhunagar District

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

+1 CC to M/s.R.RAGAVENDRAN, Advocate (SR-97098[F] dated
08/11/2019)

Crl.O.P.(MD) .No.16264 of 2019
and

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KM/ (25.11.2019) 4P 5C