

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Cr1.OP No.14789 of 2014
and
M.P No.1 of 2014

1.A.Raja
2.Swaminathan
3.M.Kumar

... Petitioners

vs.

1.State represented by
The Inspector of Police,
Anuparpalayam Police Station,
Tirupur.
2.K.Viswanathan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C No.2790 of 2014 on the file of the learned Judicial Magistrate No.I, Tiruppur and quash the same.

For Petitioners: Mr. N.R.Elango, Senior Counsel
for M/s.R.Vivekananthan

For Respondents: Mr. Krithika Kamal for R1
Government Advocate (Criminal Side)

ORDER

This petition has been filed seeking to quash the charge sheet filed against the petitioners under Section 130 of the Representation of the Peoples Act in S.T.C No.2790 of 2014 on the file of the learned Judicial Magistrate No.I, Tiruppur.

2. Though originally FIR has been registered for the offences under Sections 171(E), 147, 323, 506(ii) of IPC, charge sheet has been filed under Section 130 of the Representation of the Peoples Act. The main allegation of the prosecution is that the accused, in violation of the order of the Election

Commissioner, were canvassing for votes within 100 meters of the polling booths and thereby committed the offence.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) appearing for the 1st respondent.

4. The learned Senior Counsel appearing for the petitioners submitted that though the allegation that the petitioners have canvassed for votes within 100 meters of the polling booths, the very statement of the Investigating Officer, rough sketch and observation mahazar made it clear that the occurrence took place beyond 600 feet and the same makes it very clear that the allegation that the petitioners have canvassed for votes within 100 meters cannot be true. Hence, the learned counsel appearing for the petitioners submitted that the trial is also likely to be ended in acquittal and prays to quash the charge sheet.

5. The learned counsel for the 1st respondent has filed a counter stating that originally FIR has been filed for the offences under Sections 171(E), 147, 323, 506(ii) of IPC on 24.04.2014. Thereafter, the Investigating Officer went to the scene of occurrence and drawn the rough sketch and examined the witnesses and finally laid a final report under Section 130 Representation of the Peoples Act. Thereafter, the case was taken on file and it was now adjourned to 20.04.2020 for the appearance of the accused. Further, he contended that the police has investigated the case in impartial manner in accordance with law and the statement of LW2 implicates the petitioners/accused. Therefore, there is a prima facie case made against them and prays to dismiss the petition as devoid of merits.

6. I have perused the entire documents.

7. No doubt inherent power under Section 482 Cr.P.C cannot be invoked in every case. When the prosecution has already filed a charge sheet. However, the final report filed by prosecution indicate that there is not even prima facie materials to infer that case is likely to end conviction this Court can invoke inherent jurisdiction to prevent abuse of process of law. In given case, there is no material to show that the petitioners have canvassed within 100 meters and the case is likely to be ended in conviction. Therefore, this Court is of the view that there is no purpose in keeping the case pending and direct the accused to face the trial unnecessarily. Though there was a specific allegation made by the prosecution against the petitioners that they have canvassed for votes within 100 meters of the polling booth, from the materials collected by the Investigating Officer, it is very clear that the occurrence

place has been shown as around 600 feet away from the polling booth and the same makes it very clear that the occurrence did not took place within 100 meters. Such view of the matter, the very offence under Section 130 of the Representation of the People Act would not be attracted. This Court is of the view that when the materials of the prosecution itself indicated that there is no offence made out, keeping the matters pending and driving the accused to face the trial infringe his valuable right. Therefore, this Court is of the view that the prosecution has no material evidence to prove their case and the trial is likely to be ended in acquittal. In such view of the matter, the proceedings pending against the petitioners in S.T.C No.2790 of 2014 on the file of the learned Judicial Magistrate No.I, Tiruppur is liable quashed.

8. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.T.C No.2790 of 2014 on the file of the learned Judicial Magistrate No.I, Tiruppur is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.I,
Tiruppur.
2. The Inspector of Police,
Anuparpalayam Police Station,
Tiruppur.

3. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.E.RajThilak, Advocate, Sr.No.23500

CrI.O.P. No.14789 of 2014
and

M.P No.1 of 2014

KS(CO)
GS(21/07/2020)