

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1.O.P.No.10103 of 2022

and

Cr1.M.P.No.5962 of 2022

1.I.David

2.M.A.Ashok

3.S.Ranjth Kumar

...Petitioners

Vs.

1. State by: The Inspector of Police
Villivakkam Police Station
Chennai-49
(Crime No.141 of 2021)

2.Mr.V.Ramu

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.359 of 2022 on the file of the 13th Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

For Petitioners : Mr.P.Pugalenth

For Respondent-1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings initiated for the offences under Sections 171(G), 171(H) IPC read with 353 IPC and 34 IPC, in C.C.No.359 of 2022 on the file of the XIII Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2.The crux of the allegation in the final report against the petitioners is that on 05.04.2021, when the flying squad intercepted the 1st petitioner's bike, they found the 1st petitioner carrying a sum of Rs.17,150/- to disburse the same to the voters and after few minutes, the 2nd and 3rd petitioners came to the spot and they also supported the 1st petitioner and

involved in altercation with the officials and thereby, they have been prosecuted.

3. The learned counsel for the petitioners would submit that the petitioners are no way connected with any election offence and they had carried that money for the purpose of their business and they had also produced necessary accounts to carry such amount. Despite the same, the prosecution has been lodged without any materials and he also invited the attention of this Court to the proceedings of the Assistant Commissioner who was the appellate authority during the election period and in his proceedings dated 27.09.2021, it is categorically recorded that the amount seized by the flying squad was taken from the 1st petitioner's bank ATM and the amount has been released and thereby, the entire final report is nothing but abuse of process of law.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that during election period, the petitioners were found with an amount of Rs.17,150/- and they had not properly explained the same and thereby they have been prosecuted.

5. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent police.

6. When the final report discloses cognizable offence or materials collected in this regard, this Court normally would not venture into the appreciation of evidence and at the same time, when the entire final report did not constitute any offence and it is filed for the sake of filing final report without any substances, continuing the final report certainly nothing but abuse of process of law.

7. Perused the entire final report and the statements of the witnesses. It is the case of the prosecution that the petitioners had carried the said amount to bribe the voters and except the official witnesses, there are no other witnesses. Further there are no particulars as to whom the petitioners made an attempt to pay the amount. The petitioners are also charged for the offences under Sections 171(G) and 171(H) IPC. Section 171(G) IPC is in connection with false submissions in connection with election. Only when there is a false statement made in respect of election, the offence under Section 171(G) would be attracted. Similarly, the offence under Section 171(H) IPC is in connection with illegal payment whereas, the entire prosecution witnesses say that the petitioners had only carried that amount and the appellate authority has stated that the 1st petitioner had withdrawn the said amount from his Bank ATM at the relevant point of time and was proceeding for his business purpose.

8. When such view of the matter, the offences under Sections 171(G) and 171(H) IPC would not be attracted even if the entire prosecution materials collected is taken in its face value. Similarly, there is no allegation that the petitioners had prevented the Government servants or used criminal force against them. It is mere altercation of explaining the manner in which the petitioners had carried the said amount and it cannot be construed as assault or criminal force to deter the public servants from doing their duty.

9. Therefore, this Court finds that it is a fit case to exercise its power under Section 482 Cr.P.C. for quashing the final report and continuing the final report would be nothing but abuse of process of law.

10. Accordingly this Criminal Original Petition is allowed. The final report filed in C.C.No.359 of 2022 on the file of the XIII Metropolitan Magistrate Court, Egmore, Chennai is quashed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The XIII Metropolitan Magistrate Court,
Egmore, Chennai
2. The Inspector of Police
Villivakkam Police Station
Chennai-49
3. The Public Prosecutor
High Court, Madras.

+4cc to M/s.P.Pugalenth, Advocate, S.R.No.39487, 39242

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SMI (CO)
RGA(21/07/2022)