



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.1021 of 2022

and

Crl.MP(MD)Nos.725 & 726 of 2022

G.Ramar

... Petitioner / Single Accused

vs.

1.The State Rep by its
The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
(Crieme No.249 of 2021)

... Respondent/ Complainant

2.Saravanakumar

... Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.819 of 2021, on the file of the Judicial Magistrate Court, Alangulam, Tenkasi District, and quash the same.

For Petitioner : Mr.B.Saravanan for
Mr.D.Venkatachalam

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed for quashing the proceedings in S.T.C.No.819 of 2021, on the file of the Judicial Magistrate Court, Alangulam, Tenkasi District.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate (Crl.Side) appearing for the first respondent.

3. The petitioner is facing trial in S.T.C.No.819 of 2021 on the file of the Judicial Magistrate, Alangulam, Tenkasi District for the offence under Section 171 (E) of IPC, 1860.

4.The case of the prosecution is that on 01.04.2021, at around 10.30 a.m, the petitioner was found carrying a sum of Rs.88,000/- along with the voters list and mobile phone. He was caught by one



Murugan and the flying squad was also informed. The second respondent herein, who was heading the flying squad, came to the spot and received the complaint and forwarded the same to the Alangulam Police Station, Tenkasi District. Thereupon, the first respondent moved the jurisdictional Magistrate and after obtaining a direction, registered a case in Crime No.249 of 2021. The matter was investigated and charge sheet was filed. The case was taken on file in S.T.C.No.819 of 2021.

5.The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of ground and called upon this Court to quash the impugned proceedings.

6.Per contra, the learned Government Advocate (Crl.Side) submitted that the petitioner was caught red-handed. A sum of Rs.88,000/- along with voters list was recovered. According to the learned Government Advocate (Crl.Side), obviously, the petitioner was keeping the said amount only for the purpose of distributing the same to the local voters.

7.I carefully considered the rival contentions and went through the materials available on record.

8.As rightly pointed out by the learned counsel for the petitioner, the offence under Section 171 (E) of IPC, 1860, is a non-cognizable offence. Therefore, the procedure set out under Section 155 Cr.P.C, must have been followed. According to the learned counsel, the procedure set out in the above provision was not at all followed in this case. The learned counsel also drew my attention to the order dated 18.03.2020, made in Criminal Petition No.8219 of 2019, passed by the Hon'ble High Court of Karnataka at Bengaluru.

9.In the case on hand, the informant Murugan is said to have called the second respondent who was heading the flying squad. When they approached the first respondent, the first respondent ought to have entered the substance of the information in the book maintained for the purpose. Thereafter, the first respondent ought to have referred the informant to the Jurisdictional Magistrate. In this case, neither of the steps were undertaken after receiving information from the second respondent. The first respondent had moved the Jurisdictional Magistrate who directed the registration of the FIR. This Criminal Procedure Code does not contemplate such an approach. The course of action adopted by the first respondent was in clear breach of the procedure laid down in Section 155 Cr.P.C. The Hon'ble High Court of Karnataka had quashed the proceedings, when similar breach was noticed.

10. Respectfully following the same, I hold that the breach of procedure occasioned in this case vitiated the impugned prosecution stands quashed and the



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Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dss

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate,
Alangulam, Tenkasi District.
- 2.The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.VENKATACHALAM, Advocate (SR-2128[F] dated 24/01/2022)

Crl.O.P. (MD)No.1021 of 2022

and

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