



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.19002 of 2021 and

CRL.M.P. (MD)No.10545 of 2021

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V.Premalatha

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Inspector,
Tirunelveli Town police station,
Tirunelveli.

3.The Tahsildar,
Tirunelveli Town,
Tirunelveli.

... Respondents

4.T.Maragathanathan,
Tahsildar cum Election Officer,
Tirunelveli.

... Respondent / Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the charge sheet in C.C.No.747 of 2020 pending on the file of the Judicial Magistrate No.IV, Tirunelveli and quash the same.

For Petitioner : Mr.R.Ramasamy

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 to 3.

2. The petitioner is the Treasurer of Desiya Murpokku Dravida Kazhagam (DMDK), a recognised State political party. The petitioner was campaigning for her candidates in Tirunelveli, on 25.03.2016 in connection with the State Assembly Elections. During her campaign speech, she is said to have told the audience that if anyone offers them cash for votes, they should demand payment of Rs.1,00,000/- per person. Information that the petitioner spoke in such a manner reached Tirunelveli Town police station the next day. Crime No.191 of 2016 was registered for the offences under Sections 171(C) r/w.



171(F) and 188 of I.P.C and Section 123(2) of the Representation of the People Act, 1951. The case was investigated and final report was filed. Cognizance of the offences was taken and the case was also taken on file in C.C.No.747 of 2020 on the file of the Judicial Magistrate No.IV, Tirunelveli.

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3. As rightly pointed out by the learned counsel appearing for the petitioner, the offences in question are non-cognizable offences. Therefore, the Inspector, Tirunelveli Town police station, Tirunelveli, could not have registered the First Information Report on his own. The registration of the First Information Report for the offence under Section 188 of I.P.C. also runs counter to the decision of this Court in Crl.O.P.(MD)No.1356 of 2018 (Jeevanandham V. State) dated 20.09.2018. Section 123(2) of the Representation of the People Act, 1951, is not a penal provision at all.

4. In any event, read as a whole, the petitioner's words can never be understood as interfering with the free exercise of any electoral right. She was not casting any undue influence on the voters also. In fact the petitioner's speech must be taken as throwing challenge on those who are indulging in such act of disbelief of man power. That apart, a degree of exaggeration and margin must be permitted in such election speeches. No prudent person will deem it as an offence or cause registration of First Information Report.

5. Therefore, looked at from any angle, the registration of the impugned First Information Report is bad in law. The impugned proceedings are liable to be quashed and accordingly quashed.

6. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To:

- 1.The Judicial Magistrate NO.IV,
Tirunelveli.
- 2.The District Collector,
Madurai District, Madurai.
- 3.The Inspector,
Tirunelveli Town police station, Tirunelveli.
- 4.The Tahsildar,
Tirunelveli Town, Tirunelveli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD)No.19002 of 2021
06.01.2022

nsn (CO)

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