



WEB COPY



Crl OP No.11475 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No.11475 of 2021
and Crl.M.P.Nos.6662 & 6663 of 2021

Abubakkar Shithik

... Petitioner/Accused

Versus

1. State, Rep. by

The Sub-Inspector of Police,
Chintadaripet Police Station,
Chennai.

(Cr. No.161 of 2019)

2. Mr. Devadoss

Assistant Executive Engineer,
Flying Squad, Election Officer,
Chepauk, Triplicant, Chennai.

... Respondents/Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C.No.1623/2020 pending on the Metropolitan Magistrate XIV, Egmore and quash the same.



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For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.S.Balaji
Govt. Advocate (Crl. Side), for R1

No appearance for R2

ORDER

This Criminal Original Petition has been filed to quash the Final Report for the alleged offence under Section 127 (A) 4 of the Representation of People Act, 1951.

2. It is alleged in the Final Report that the petitioner violated the orders of the Election Commission and had affixed notices on the Walls of the Houses on two streets in Chennai. The learned counsel for the petitioner submitted that the impugned Final Report is liable to be quashed on the short ground that the respondent Police has no jurisdiction to investigate and file a Final Report in respect of the alleged offence as it is a non cognizable offence. The punishment prescribed for the said offence is six months, and the Schedule II appended to the Code of Criminal Procedure makes it clear that the offence is non cognizable. The learned counsel relied upon the judgment of the Karnataka High Court in *Sri. H.D.Kumaraswamy v. State by Garag Police Station,*



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Garaga, Dharwad District and others, made in Criminal Petition No. 100535 of 2017 dated 23.03.2017.

3. The learned Government Advocate (Criminal Side) fairly submitted that the alleged offence is a non cognizable offence.

4. This Court finds that Section 127(A)(4) is a non cognizable offence, as per Schedule II appended to the Code of Criminal Procedure, since the punishment prescribed for the said offence is six months. Hence the Police have no jurisdiction to investigate the said offence unless the procedure prescribed under Section 155 of the Code of Criminal Procedure had been followed.

5. Hence this Court is inclined to quash the Final Report. The Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

25.04.2023

jv



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Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

To

1. The Metropolitan Magistrate XIV,
Egmore.
2. The Sub-Inspector of Police,
Chintadaripet Police Station,
Chennai.



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SUNDER MOHAN, J.

jv

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