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Crl.O.P.No.6663 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

Crl.O.P.No.6663 of 2021 and
Crl.M.P.Nos.4446 & 4447 of 2021

Abubkkar Shithik

... Petitioner

Vs.

1. State Rep. by its
The Sub-Inspector of Police,
Chintadaripet Police Station,
Chennai.

2. Rajamohan
Assistant Executive Engineer,
Flying Squad, Election Officer,
Chepauk, Triplicane,
Chennai.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.1625 of 2020, pending on the file of the Metropolitan Magistrate – XIV, Egmore and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.S.Balaji
Govt. Advocate (Crl. Side) for R1
No appearance for R2 (Notice not ready)



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ORDER

WEB COPY This petition is filed to quash the final report in C.C.No.1625 of 2020 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai, for the offence under Section 127 of the Representation of People Act, 1951 (hereinafter referred to as 'the Act').

2. It is alleged in the final report that on 15.04.2019, the petitioner was found affixing a bit notice on behalf of a political party in the electricity board pillar box. On the basis of the said allegation, the impugned final report has been filed under Section 127 (1) of the Act.

3. The learned counsel for the petitioner would state that the allegation found in the final report would not attract the offence alleged under Section 127(1) of the Act. The said provision deals with disturbance at election meetings. Admittedly, there was no election meeting much less any disturbance to the said meeting.

4. Learned Government Advocate (Criminal Side) would take notice for the first respondent/the investigating officer and the second



respondent/defacto complainant and would submit that there are allegations in the impugned final report to attract the offence under Section 127(1) of the Act and prayed for dismissal of the quash petition.

5. On reading of the final report, it is seen that the only allegation against the petitioner is that he had affixed the bit notice on behalf of a political party in the electricity board pillar box on 15.04.2019. On the said allegation, the petitioner has been charged for the offence under Section 127(1) of the Representation of the People Act 1951. Section 127(1) of the Representation of the People Act 1951 reads as follows:

"127. Disturbances at election meetings.—

(1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(1A) An offence punishable under sub-section (1) shall be cognizable.



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6. From the above provision, it is clear that the prosecution is misconceived. There was no disturbance to any election or public meeting as alleged in the impugned final report. Therefore the impugned final report in C.C.No.1625of 2020 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai is quashed against the petitioner. This Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

21.03.2023

Index: Yes/No

Speaking / Non Speaking Order

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To
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1. The Metropolitan Magistrate – XIV, Egmore,
Chennai.
2. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J

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