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Crl.O.P.No.8156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.8156 of 2024
& Crl.M.P.Nos.5937 & 5936 of 2024

1. S.M.Sugumar.
2. Gopi.

... Petitioners/Accused 1 & 2
/versus/

The Inspector of Police,
Ranipet Police Station,
Ranipet.

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, pleased to call for the records pertaining to the charge sheet pending on the file of the District Munsif-cum-Judicial Magistrate, Ranipet in C.C.No.1 of 2024 filed by the respondent herein and quash the same.

For Petitioners : Mr.G.Karthikeyan, Senior Counsel,
for Ms.A.Jagadeeswari

For Respondent : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition is filed to quash the C.C.No.1 of 2024 on the file of District Munsif-cum-Judicial Magistrate, Ranipet.

2. The final report of the case indicates that based on the complaint given by the Sub Collector, F.I.R in Crime No.148 of 2021 was registered on 04.04.2021 wherein, the complaint disclose that on 03.04.2021 at about night 10.23 hours, when his team was in patrol duty received information that about more than 50 persons are gathered near a godown which belongs to 1st petitioner who happened to be the AIADMK candidate for the Ranipet Assembly Constituency. The informant reached the spot and found there were several two wheelers and few persons standing outside the locked premises. All of a sudden, one person jumped out climbing the compound wall of the godown and informed him that few persons are confined inside the godown. Thereafter, 1st petitioner came to the spot and asked the Government Officials to leave the place stating that the premises is used as his Election Office and party workers are taking rest. However, the team conducted search of the premises and found 27 persons confined in a room and 29 cellphones were kept in another place.



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Further, search of the premises led to recovery of currency counting machine, voter list and few covers. Enquiry with the person rescued revealed the fact that they were engaged by the 1st petitioner for election canvass for Rs.1000/- per day. They were supposed to distribute money for voters as per the instruction Rs.13 lakhs was entrusted to one Ramadass for distribution to the voters, but money was snatched away by two unknown persons. In this connection, the persons employed for distributing the money were confined in a room and men of 1st petitioner assaulted them to disclose where the money been concealed. In such circumstances, the police came and rescued them. Further investigation has led to recovery of three bags concealed in the bush outside the godown premises consists total sum of Rs.91,67,000/-.

3. The Learned Senior Counsel appearing for the petitioners submits that the entire complaint and the final report is miserably misconceived and none of the provisions related to election offence is attracted. The case of the prosecution that the money recovered outside the godown premises of the 1st petitioner and meant for distribution to the voters is highly imaginary accusation and without any material to support the said allegation.

4. Further, the Learned Senior Counsel for the petitioners submits



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that the persons who were inside the premises are all made as an accused.

While so, the allegation that the 1st petitioner and his men wrongfully confined 27 persons from Andhra Pradesh falls to ground and the reliance of confession statement of Dinesh and Ramadass which implicates this petitioner, is not admissible since they are all arrayed as an accused.

5. The Inspector of Police, Ranipet Police Station has filed counter wherein, it is stated that on specific information, the Sub Collector went to the spot and found that there was unlawful assembly as well as wrongful confinement of 27 persons in the godown. These facts are fortified by the statements of the witnesses recorded during the course of investigation. The search around the premises has led to recovery of Rs.91,67,000/- which was kept in three bags and they are meant for distribution for votes and the same is corroborated by the statement of Dinesh and Ramadass. The circumstances like recovery of currency counting machine, voter list, white color covers written as part and recovery of money near the premises is sufficient to proceed against these petitioners for offences under Section 171(H), 171 (E), 143, 342, 323, 506(1) and 120 B of I.P.C.



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6. As a rebuttal, the Learned Senior Counsel appearing for the petitioners submits that the alleged statement of the accused persons is inadmissible in evidence and therefore, prosecution cannot rely upon the confession statement of the accused persons which has not led to any discovery of facts. Further, failure to correlate the money recovered 80 feet away from the premises in a bush to the first petitioner is fatal to the case of the prosecution. To allege, the petitioners have indulged in distributing money for voters by engaging other accused persons. There is no material to attract offences under Section 171(H) and 171 (E) of I.P.C., the required ingredients are giving gratification to induce a voter and there must be actual payment.

7. The Learned Senior Counsel for the petitioners specifically contend that, certain documents like PAN card, cheque leaves, bank vouchers and Aadhar card of third parties were found in the bag with cash recovered by the prosecution. There is not even an *iota* of investigation been conducted regarding those documents. The statements of those persons not been recorded by the police which would clearly indicate that they do not want to properly investigate the case but want to fix the petitioners herein due to the turn of event



8. The Learned Government Advocate (Crl.Side) for the respondent strenuously argued that the attendant circumstances like confinement of 27 persons hailing from Andhra Pradesh, recovery of 29 cellphones kept separately in the room, recovery of currency counting machine and recovery of money thrown in the bush near the building read along with the statement of witnesses sufficient to prove that the money recovered in the bush belongs to the 1st petitioner and meant for distributing it to the voters using the workers employed from Andhra Pradesh. Since, the crime has been committed in secrecy pursuant to the conspiracy, the proof of crime can only be the circumstantial evidence and the petitioners have to undergo the trial since *prima facie* material is available to make out commission of crime.

9. Heard the Learned Senior Counsel for the petitioners and the Learned Government Advocate (Crl.Side) for the respondent. Records perused.

10. The charge against the petitioners is that the 1st petitioner, who contested election of the Ranipet Assembly Constituency engaged 27 persons



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hailing from Andhra Pradesh for the purpose of distributing money to the voters. To substantiate the charge, the police rely upon recovery of Rs.91,67,000/- from three bags found in a bush outside the building. The distance between the building and the bush is about 80 feet as per the rough sketch. From one of the bag, police has recovered certain documents pertaining to third parties. However, the Investigating Officer has not made any attempt to enquire those third parties to ascertain how those documents like PAN Card, cheque books, Aadhar Card of those persons found along with the bag with money. That apart, there is no material to presume this money was thrown in the bush by the occupant of the building. Contrarily, the statements of the accused persons Dinesh and Ramadass is to the effect that the money of Rs.13 lakhs which they carried was snatched away by two unknown persons, a day ago. Except the statement of the accused, (admissibility of it is highly doubtful) there is no evidence to link the money recovered to the accused or to the offence alleged. The presence of currency counting machine is not an evidence to prosecute the petitioners for distributing money to the voters. When neither money nor voter to connect first accused available. Possessing currency counting machine is not an offence when no money recovered in the premises. No evidence to prove the money in three bags recovered from a bush far away



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from the building belongs to the accused and that money was meant for distributing to voters. Apart from currency counting machine, it is alleged that, 16 white color envelope and pamphlets for canvassing vote of the first petitioner were recovered from the premises along with details of ward in-charge written in two note books. Independently and cumulatively these materials have no effect in prosecuting the petitioner without the link evidence.

11. Though, the Learned Government Advocate (Crl.Side) for the respondent claims these are all incriminating materials against the petitioners to prove the charge against the petitioners and others, this Court is not able to countenance the said arguments since all the materials which are found and recovered from the premises of the 1st petitioner cannot be an evidence to prove the charge of distributing money to the voters.

12. A truncated and hasty investigation without probing into the fact about the ownership of the currency recovered outside the premises of the accused, the failure to enquire the persons whose name found in the PAN card, Aadhar card and cheque leaves which were recovered in the bag along with the



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cash, the failure of Investigating Officer to ascertain whether any complaint of theft of Rs.13 lakhs from Dinesh and Ramadass been registered by any of the Police Station nearby or any other theft case by Sindhuja whose PAN card and Aadhar card found along with the money in the black colour bag and his failure to conduct enquiry with one Saraswathi whose cheque leaves was found in the said bag with debit vouchers, the failure to conduct enquiry with Prabhu whose cheque leave and composite vouchers found along with part 114 voter list are all the grave lapses on the part of the investigation. The omission to correlate the money recovered elsewhere to the accused persons is fatal to the case of the prosecution. The confession statement of the accused persons which has not led to discovery of facts does not have any evidentiary value for the prosecution to proceed against the petitioners.

13. From the submissions made by the Learned Government Advocate (Crl.Side) for the respondent, the case of the prosecution solely rely upon the confession statements alleged to have been recorded from Dinesh and Ramadoss. Since the statement read in entirety renders them inadmissible in evidence as being confession of an accused to police. There is no purpose in



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proceeding against these petitioners on a truncated investigation and inadmissible statement of the accused.

14. Since the petitioners have categorically denied ownership or did not claims the money recovered in this case, it is made clear that at no point of time, they can seek for return of money and the said money recovered to be confiscated has by the State Government forthwith.

15. For the reasons stated above, this Criminal Original Petition is allowed. The final report in C.C.No.1 of 2024 against these petitioners and other accused are hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

18.10.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

To:-

1. The District Munsif-cum-Judicial Magistrate, Ranipet.
2. The Deputy Superintendent of Police,
Rasipuram DSP Office, Namakkal District.
3. The Inspector of Police,
PS Namagripettai Police Station,
Rasipuram, Namakkal District.



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4. The Public Prosecutor, High Court, Madras.

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Dr.G.JAYACHANDRAN,J.

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