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CrI.O.P (MD)No.22577 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HON'BLE MR.JUSTICE DR.G.JAYACHANDRAN,J.

CrI.O.P (MD) No.22577 of 2023

and

CrI.M.P (MD) No.17656 of 2023

K.Manickam

... Petitioner

Vs.

1.The Inspector of Police
Sholavandhan Police Station
Madurai District
(Crime No.100 of 2021)

2.Abdul Rahuman

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to quash the FIR in Crime No.100 of 2021 for the alleged under Section 171 (E) of IPC on the file of the 1st respondent police.

For Petitioner : Mr.Ramsundarvijayaraj.S

For Respondents : Mr.K.M.D.Muhilan for R1
Govt. Advocate (Criminal Side)

ORDER



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This petition has been filed seeking to quash the impugned FIR in Crime No.100 of 2021 dated 31.03.2021 registered for the offence under Section 171(E) of IPC.

2. The substance of the complaint indicates that the petitioner herein, while canvassing during the assembly election on 31.03.2021 alleged to have distributed money to the voters on 31.03.2021 at about 4.00 p.m. Based on the complaint given by the Election Observer, a complaint has been registered. However, from the complaint, there is no information how much money paid and to whom. That apart, till the date of filing this petition to quash, the 1st respondent police has not completed the investigation and filed a final report. Therefore, the petitioner has sought for quashing the complaint on the ground of limitation as well as bereft of details in the complaint which carry the ingredient of the offence under Section 171(E) IPC.

3. The learned Government Advocate (CrI. Side) submits that



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the punishment for the offence under Section 171(E) IPC is to the extent of one year or fine or with both. However, on completion of investigation, final report has been filed on 21.01.2024 before the Judicial Magistrate, Vadipatti and the same has been returned to be presented before the Judicial Magistrate, Madurai which has been re-designated as Special Court for the offence against the elected members of the Parliament and Assembly. He further submitted that the final report along with the application under Section 473 Cr.P.C will be filed in the Judicial Magistrate Court, Madurai.

4. This Court, on perusing the records find that the complaint itself is bereft of details which is necessary to prosecute the person under Section 171(E) IPC which reads as follows:

171-E. Punishment for bribery: Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.



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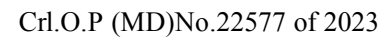
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Provided that bribery by treating shall be punished with fine only.

Explanation. - "Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

5. Bribery is defined under Section 171(B) of IPC. Unless gratification offered to induce a person to exercise his electoral right is specifically mentioned with bald averment that the money was distributed, (not sufficient) to prosecute the person under Section 171(E) IPC. That apart, it is an admitted fact that till date, final report has not been properly presented and as on date, it is hopelessly barred by limitation under Section 468 (2) of Cr.P.C. In the said circumstances, this Court is of the view that the FIR has to be quashed on the ground of limitation.

6. Accordingly, this Criminal Original Petition is allowed and



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To

2. The Public Prosecutor High Court of Madras.

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