IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.07.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.9538 of 2025
and
Crl.M.P.Nos.6315 and 6317 of 2025

K.C.Veeramani, S/o Chinnarasu .. Petitioner

Vs.

1. The Returning Officer/Additional Personal Assistant (Land)
to Collector (i/c)
No.49, Jolarpet Assembly Constituency,
Jolarpet, Tirupathur District.

2. B.Ramamoorthy, S/o Balakrishnan
(Second respondent impleaded as per
order dated 13.06.2025 made in
Crl.M.P.No.10380 of 2025 in
Crl.O.P.No.9538 of 2025)

.. Respondents

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records pertaining to STC.No.779 of 2025 on the file of the Judicial Magistrate No.1, Tirupattur and quash all further proceedings against the petitioner.

For petitioner : Mr.D.John Sathyan, Senior Counsel for
M/s.Nathan and Associates

For respondents: Mr.G.Rajagopalan, Senior Counsel for
M/s.G.R.Associates for R-1
Mr.P.C.Harikumar for R-2

ORDER

The petitioner has filed the present petition seeking to call for the records pertaining to STC.No.779 of 2025 on the file of the Judicial Magistrate No.1, Tirupattur and quash all further proceedings against the petitioner.

2. The brief facts that led to the filing of the present petition, as culled out from the affidavit filed in support of this petition, are as under:

2.1. The petitioner is a former Member of the Legislative Assembly representing the Jolarpet Constituency. In the 2021 Tamil Nadu Legislative Assembly elections, the petitioner filed his nomination along with an affidavit in Form 26 as mandated under Rule 4A of the Conduct of Election Rules, 1961, declaring his assets, liabilities, and criminal antecedents, if any. A private individual, one Mr.Ramamoorthy, lodged a complaint on 03.04.2021 before the Returning Officer alleging that the petitioner had suppressed material facts regarding his income in the said affidavit. After scrutiny, the complaint was dismissed under Section 36(2) of the Representation of the People Act, 1951.

Despite this dismissal, the said complainant continued to submit repeated representations raising identical allegations. Meanwhile, in a connected writ petition in W.P.No.14260 of 2021, this Court directed the Election Commission to issue notices and frame guidelines to prevent misuse of the complaint process.

2.2. Pursuant thereto, the Election Commission issued guidelines on 24.08.2021. However, the Returning Officer, who was an ad hoc appointee under notification dated 11.01.2021, and whose official capacity terminated with the declaration of election results, proceeded to conduct a unilateral inquiry on 24.06.2022. Despite lacking jurisdiction or statutory authority post-election, the Returning Officer forwarded the findings to the District Electoral Officer and later made a reference based on which a complaint came to be filed.

2.3. Acting upon the said complaint, the learned Judicial Magistrate No.1, Tirupathur, took cognizance in STC No.779 of 2025 for alleged offences under Section 125A of the Representation of the People Act, 1951 read with Section 212 of the Bharatiya Nyaya Sanhita, 2023. The petitioner has contended that the complaint is vitiated on multiple grounds, including want of locus standi on the part of the respondent, bar of limitation under Section 516 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and lack of prima facie material to constitute any offence. It is further alleged that the impugned proceedings are a product of political vendetta and amount to abuse of the process of law. The present petition is filed seeking quashment of the criminal proceedings on these grounds.

3. The first respondent has filed counter affidavit, short of which, reads as follows:

3.1. The petitioner contested the 2021 Tamil Nadu Legislative Assembly elections from Jolarpet Constituency and submitted his nomination, along with an affidavit in Form 26, disclosing his assets, liabilities, and related particulars, in compliance with Rule 4A of the Conduct of Election Rules, 1961, and the provisions of the Representation of People Act, 1951. Alleging that the said affidavit contained material misstatements and suppressions, the second respondent lodged a complaint dated 03.04.2021, followed by a series of representations reiterating the same allegations. A writ petition in W.P.No.14260 of 2021 was then filed before this Court seeking a direction to initiate criminal action. By order dated 14.07.2021, this Court directed the Election Commission of India to evolve a procedure for handling such complaints, requiring notices to be issued to the concerned candidates and appropriate action to be taken where warranted. Pursuant thereto, the Election Commission framed guidelines on 24.08.2021, and referred the matter to the Central Board of Direct Taxes (CBDT) for a factual assessment of the allegations. Simultaneously, the Revenue Divisional Officer, Tirupathur, was instructed to conduct an independent inquiry. Multiple opportunities were provided to the petitioner to respond during the course of these proceedings.

3.2. Following the inquiries, the CBDT submitted its report dated 12.07.2022, highlighting significant inconsistencies between the disclosures in Form 26 and the petitioner's Income Tax Returns, including non-disclosure of properties, liabilities, transactions, and incorrect PAN details, amounting to a discrepancy of over Rs.14 crores. Additional issues were noted, such as the petitioner's failure to disclose his trusteeship in an educational trust and a substantial bank loan, all of which were confirmed either through income tax records or field inquiries. The RDO's independent report supported these findings and was forwarded through the Chief Electoral Officer to the Election Commission of India. Upon examining the material, the Commission, by letter dated 25.07.2024, directed initiation of proceedings under Section 125-A of the Representation of People Act, 1951. In compliance with the said direction and based on the CBDT and RDO reports, the first respondent, in his capacity as Returning Officer, filed a complaint under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for offences under the Representation of People Act and

Section 212 of the Bharatiya Nyaya Sanhita, 2023. Cognizance was taken by the learned Judicial Magistrate No.1, Tirupathur, on 12.11.2024, after affording opportunity to the petitioner.

3.3. The petitioner, in his affidavit filed in C.M.P.No.9295 of 2024, objected to the maintainability of the complaint on two principal grounds. Firstly, it was contended that the complaint was barred by limitation under Section 516 of the BNSS, since the alleged offences were punishable with imprisonment not exceeding one year. Secondly, it was urged that the appointment of the Returning Officer ceased upon completion of election duties and therefore, the complainant lacked the locus standi to prefer the complaint. It was further argued that Form 26 was a mere statement sworn before a notary and any inaccuracies therein would not amount to a criminal offence. The learned Magistrate, however, found that the delay had been properly explained, relying on the principles laid down in Vanka Radhamanohari v. Vanka Venkata Reddy (1993) 3 SCC 4 and Sarah Mathew v. Institute of Cardiovascular Diseases (2014) 2 SCC 62. Invoking Section 519 of the BNSS, the Magistrate held that the delay was justified in view of the multiple layers of inquiry, reliance on the CBDT's investigative report, and the petitioner's own failure to respond in time. On the issue of locus standi, the Magistrate held that the Returning Officer, being the designated recipient of Form 26 under law and functioning under the Election Commission's control, remained competent to file the complaint even after conclusion of the electoral process. The provisions of Section 13-CC of the Representation of People Act and Article 326(6) of the Constitution were rightly invoked to affirm such competence.

3.4. The learned Magistrate also concluded that the allegations against the petitioner were not minor discrepancies but involved deliberate omissions and misstatements, impacting the probity of the election process. The CBDT's report, coupled with the RDO's findings, clearly established a prima facie case for prosecution. It was also noted that certain factual admissions were made by the petitioner in the course of the inquiries. The Magistrate reasoned that the filing of Form 26 is not a mere procedural formality, but a critical step to ensure transparency and to safeguard the citizen's right to information under Article 19(1)(a) of the Constitution. The Supreme Court's dictum in PUCL v. Union of India (2003) 4 SCC 399 was relied upon to underscore the importance of truthfulness in candidate disclosures. The view that offences under Section 125-A of the Representation of People Act and Section 212 of the BNS cannot be treated lightly was reaffirmed. It was also held that the Returning Officer, being the public servant before whom the affidavit was filed, was competent to initiate action for furnishing false information under both statutes.

3.5. Upon careful consideration of the complaint, the materials placed on record, the CBDT's findings, the Election Commission's directions, and the petitioner's replies and objections, the learned Magistrate took cognizance of the offences and proceeded in accordance with law. The order reflects a conscious application of mind and a well-reasoned approach to both factual and legal issues. No error, jurisdictional or otherwise, has been demonstrated to warrant interference under Section 528 of the BNSS. Hence, the present petition is accordingly liable to be dismissed.

4. The learned Senior Counsel appearing for the petitioner would submit that the petitioner has primarily raised two grounds for seeking quashment of the complaint filed in the present case.

5. The first submission of the learned Senior Counsel is that, once the election process is concluded and the results are declared, the legal authority of the Returning Officer comes to an end. Hence, any action taken by the Returning Officer thereafter is void ab initio. It is therefore contended that, as on the date of filing of the complaint before the learned Judicial Magistrate, the first respondent had no locus standi to initiate such a complaint, as his statutory role as Returning Officer had ceased.

6. The second submission is with regard to limitation. It is submitted that the alleged offences, even if accepted at face value, are punishable only with simple imprisonment for a term not exceeding six months and a fine up to Rs.5,000/-. Given the nature of the offence and the statutory provisions governing the prosecution, the law prescribes a specific period within which any complaint must mandatorily be filed. As per Section 516 of BNSS, any complaint concerning an offence punishable with imprisonment not exceeding one year must be filed within a period of one year from the date of the alleged offence(s) or from the date of knowledge of the offence(s). As such, in view of Section 516 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), the period of limitation prescribed for filing a complaint is one year from the date of the alleged offence or from the date of knowledge of such offence. It is therefore submitted that the complaint filed in S.T.C.No.779 of 2025 is barred by limitation and is liable to be quashed.

7. Per contra, the learned Senior Counsel appearing for the first respondent would submit that although the election results were declared on 06.04.2021, the second respondent had lodged a complaint as early as 03.04.2021, which is prior to the declaration of the election results. It is further

submitted that the second respondent had followed up with subsequent representations dated 12.05.2021, 22.05.2021, 29.07.2021 and 08.09.2021.

8. It is further submitted that the second respondent had also filed a Writ Petition in W.P.No.14260 of 2021 seeking a direction to the first respondent to take appropriate legal action. Pursuant to the directions issued by this Court therein, notice was issued to the petitioner and an opportunity was granted to submit an explanation. The explanation submitted was found to be unsatisfactory, and accordingly, the Election Commission of India (ECI) was directed to proceed with the matter in accordance with law, irrespective of the political affiliation of the petitioner.

9. The learned Senior Counsel would further submit that, following the directions of this Court, the ECI framed guidelines dated 24.08.2021. Thereafter, by communication dated 09.11.2021, the ECI referred the matter to the Chairman, Central Board of Direct Taxes (CBDT), to verify the veracity of the declarations made in the election affidavit. Pursuant thereto, the Income Tax Department conducted a detailed enquiry and, by letter dated 12.07.2021, informed the ECI that several discrepancies were found in the affidavit filed by the petitioner, particularly with respect to undisclosed properties, liabilities, and

transactions that were otherwise declared in the Income Tax Returns. An investigative report dated 13.06.2021 was also submitted in this regard.

10. It is also submitted that an independent enquiry was simultaneously conducted by the Revenue Divisional Officer (RDO), Tirupattur District, in compliance with the ECI's directions. During this process, the petitioner was issued multiple notices, and his statement and depositions were recorded. The report of the RDO was forwarded to the District Election Officer and District Collector, Tirupattur District, and thereafter to the Chief Electoral Officer of Tamil Nadu by letter dated 06.08.2022, and ultimately to the ECI by communication dated 16.08.2022.

11. It is submitted that, based on the findings of both the Income Tax Department and the Revenue Department, the ECI was satisfied that the petitioner had made mis-declarations in the election affidavit. Accordingly, the first respondent, acting upon the direction of the ECI, filed a private complaint before the Judicial Magistrate, which was taken on file as S.T.C. No.779 of 2025.

12. The learned Senior Counsel would further submit that the issue of locus standi does not arise in the present case, as the initial complaint was made

while the first respondent was still functioning as the Returning Officer. Moreover, the complaint was preceded by multiple communications and was filed within the prescribed period, and therefore, not hit by the bar of limitation under Section 516 of the BNSS.

13. It is also submitted that the very grounds now urged before this Court were raised by the petitioner before the learned Judicial Magistrate in Crl.M.P.9295 of 2024, which was dismissed. However, the petitioner has not chosen to challenge the said dismissal order. Instead, he has now filed the present petition under Section 528 of the BNSS, which is not maintainable.

14. The learned Senior Counsel would finally submit that the grounds raised by the petitioner involve mixed questions of fact and law, which cannot be adjudicated at the preliminary stage, and require full-fledged trial. Hence, it is prayed that the petition be dismissed as devoid of merit.

15. Heard the learned counsel on either side and perused the materials available on record.

16. Admittedly, the first respondent was the Returning Officer of No.49, Jolarpet Assembly Constituency. The petitioner was the candidate who contested the 2021 Assembly Elections in the Jolarpet Constituency. Pursuant to his nomination, he submitted an affidavit in accordance with Rule 4A of the Conduct of Election Rules, 1961, comprising the details of the assets and liabilities, including those of his dependants, along with his nomination form, as amended under the Representation of the People Act, 1951 and the Conduct of Election Rules, 1961.

17. The second respondent lodged a complaint against the petitioner before the Returning Officer on 03.04.2021, alleging that the petitioner made several false statements and suppressed facts in his affidavit filed in Form-26 under the said Rules. After the declaration of the election results, the second respondent filed a Writ Petition before this Court in W.P.No.14260 of 2021, praying to call for the records on the file of the fourth respondent therein (second respondent herein) in connection with letter Na.Ka.B2/1575/2021, dated 26.05.2021, and quash the same as illegal, vitiated by non-application of mind, and perverse, and consequently direct the fourth respondent therein to file the complaint of the petitioner, dated 03.04.2021, before the competent Judicial Magistrate having jurisdiction, against the fifth respondent therein

(K.C.Veeramani, the petitioner in this writ petition), under Section 125A of the Representation of the People Act read with Section 177 IPC and Section 195 Cr.P.C. A Division Bench of this Court, by order dated 14.07.2021 passed in W.P.No.14260 of 2021, disposed of the same, observing as follows:-

> "12. In the light of the present submission of the Election Commission that it will consider the petitioner's representation afresh, the petition may be disposed of at the receiving stage."

18. Thereafter, the Election Commission of India (for short, "ECI") formulated guidelines dated 24.08.2021. Subsequently, a complaint was filed by the second respondent against the petitioner, which was taken up for consideration. The ECI, by letter dated 09.11.2021, referred the matter to the Chairman, Central Board of Direct Taxes (i.e., CBDT), New Delhi, to ascertain the veracity of the elections and to take necessary action in accordance with law and also filed a report of the findings. Subsequently, the Income Tax Department conducted a detailed investigation and informed the ECI that there were certain discrepancies.

19. Further, the Revenue Divisional Officer of Thirupattur District also conducted an enquiry into the allegations made against the petitioner and filed a report. Subsequently, it was found that the petitioner had suppressed assets and

liabilities in the nomination filed before the Election Officer. Thereafter, a complaint was filed before the jurisdictional Magistrate. In this context, though the election results were declared on 06.04.2021, the complaint was given by the second respondent on 03.04.2021 itself, which is prior to the declaration of the election results. Subsequently, due to various proceedings and the continuance of enquiry, the complaint was not filed earlier.

20. Further, admittedly, the second respondent preferred a complaint against the petitioner before the first respondent on 03.04.2021 itself. The complaint can be given only after the declaration of election results. Since, on the date of filing of the complaint, the first respondent was the Returning Officer/Election Officer, for the purpose of continuance of the case, his capacity as the Election Officer is deemed to be continued.

21. Further, the petitioner had filed a similar petition before the jurisdictional Magistrate, and the same was dismissed by the Magistrate on 17.03.2025, but the petitioner did not challenge the said order of the Magistrate and has now filed the present Crl.O.P. invoking Section 528 of the BNSS on the very same grounds.

22. Therefore, the grounds taken by the petitioner regarding the locus standi of the first respondent to file the complaint are not legally sustainable.

23. The other ground of attack is regarding limitation. Admittedly, during the election period, a complaint was given by the second respondent before the first respondent against the petitioner on 03.04.2021 itself, alleging that false statements and declarations were made in the affidavit filed under Form-26 of the Conduct of Election Rules.

24. The election results were admittedly declared only on 06.04.2021 and, thereafter, legal proceedings were pending and subsequently, on conclusion of the formalities, the election authorities filed the complaint before the Magistrate.

25. As far as the limitation is concerned, what is relevant is the date of filing of the complaint by the complainant before the competent authority, and not the date of cognizance of the complaint. In this regard, it is useful to extract the observations of the Honourable Supreme Court in the decision reported in (2007) 7 SCC 394 = AIR 2007 SC 2762 (Japani Sahoo vs. Chandra Sekhar Mohanty), wherein, in paragraph 52, it was held as follows:-

> "52. ... . we hold that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a court. We, therefore, overrule all decisions in which it has been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/court and not of filing of complaint or initiation of criminal proceedings."

26. In view of the above decision of the Honourable Apex Court, the question of limitation raised by the petitioner is not sustainable, as it is settled law that for the purpose of computing the period of limitation under Section 468 Cr.P.C., the relevant date to be considered is the date of filing of the complaint or initiation of criminal proceedings, and not the date of taking cognizance of the offence by the Magistrate or issuance of process by the Court.

27. It is also relevant to refer to the proviso to Section 519 of the Bharatiya Nagarik Suraksha Sanhita, 2023. This provision allows the Court to take cognizance of a complaint even after the expiry of the prescribed period of limitation, if the Court is satisfied that the delay has been properly explained, or that taking such action is necessary in the interests of justice. The proviso reads as follows:

> "519. Extension of period of limitation in certain cases:- Notwithstanding anything contained in the forgoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice. "

In the present case, there are materials placed on record, including the report of the Revenue Divisional Officer and the findings of the Income Tax Department, which prima facie reveal material discrepancies in the affidavit submitted by the petitioner at the time of nomination. These materials, forming part of the complaint itself, are not only relevant for the alleged offence but are also sufficient to lay a factual foundation for invoking the proviso to Section 519 of the BNSS. The existence of such documentary evidence provides a legitimate basis for the competent court to form an opinion, for the purpose of examining whether the delay in filing the complaint stands explained or whether the interest of justice warrants cognizance beyond the prescribed period. Whether or not such satisfaction was rightly arrived at is a matter of adjudication during trial and cannot be conclusively determined in a petition seeking quashment at the threshold.

28. Moreover, limitation is a mixed question of fact and law. Therefore, it can be decided only during trial.

29. The other grounds raised by the petitioner are nothing but matters of defence, which can be agitated by the petitioner during the trial before the jurisdictional Magistrate.

30. Therefore, the petitioner has not made out any grounds for quashing the complaint in S.T.C.No.779 of 2005 on the file of the Judicial Magistrate-I, Thirupattur.

31. For all the above reasons, the present Crl.O.P. is dismissed. However, the petitioner is at liberty to raise all his defences during the course of trial. Consequently, connected miscellaneous petitions are closed.

18.07.2025

Index: Yes
Internet: Yes
Neutral Case Citation: Yes
Speaking Order: Yes
cs / r n s

P.VELMURUGAN, J

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To

1. The Judicial Magistrate-I, Tirupattur, Tirupathur District.

2. The Public Prosecutor, High Court, Madras.

3. The Record Keeper, Criminal Section, High Court, Madras.

4. The Returning Officer/Additional Personal Assistant (Land) to Collector (i/c)
   No.49, Jolarpet Assembly Constituency,
   Jolarpet, Tirupathur District.

Crl.O.P.No.9538 of 2025

18.07.2025