



Crl.O.P.(MD) No.17741 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.17741 of 2025

and

Crl.M.P.(MD) Nos.14529 & 14530 of 2025

Vetrivel

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
Crime No.44 of 2022

2.Balasubramanian
Sub-Inspector of Police – 2516,
Munneerpallam Police Station,
Tirunelveli District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the charge sheet in C.C.No.368 of 2023 pending on the file of the learned Judicial Magistrate No.V, Tirunelveli and quash the same as against the petitioner.

For Petitioner : Mr.G.Karuppasamypandiyan



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For R1

: Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the final report in C.C.No.368 of 2023 on the file of the learned Judicial Magistrate No.V, Tirunelveli, filed against the petitioner for the offences punishable under Sections 171(B) and 171(E) of the Indian Penal Code, 1860, and Section 123(1)(A)(a) of the Representation of the People Act, 1951.

2. The allegation in the final report is that the petitioner was in possession of voters' slips; that he was canvassing votes on behalf of a political party; and that he was also in possession of 22 currency notes of Rs.2,000/- denomination, in violation of the relevant Rules, and thus committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that Section 171(B) of the Indian Penal Code, 1860 defines bribery and is not a penal provision; that similarly, Section 123(1)(A)(a) of the Representation of the People Act, 1951 defines bribery and is also not a penal provision; that the only penal provision invoked against the petitioner is Section 171(E)



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of the Indian Penal Code, 1860; that the offence punishable under Section 171(E) of the Indian Penal Code, 1860 is non-cognizable, and therefore, the respondents had no jurisdiction to register the FIR without obtaining order from the concerned Judicial Magistrate, and therefore, the investigation and the subsequent final report cannot be sustained; that none of the persons to whom the petitioner is alleged to have offered bribery have been examined; and that the FIR proceeds only on the assumption that the cash in possession of the petitioner was meant to be used as bribe, and therefore, the impugned final report is liable to be quashed.

4. The learned Additional Public Prosecutor for the first respondent, per contra, would submit that the point raised by the petitioner has to be adjudicated only during trial; that the impugned prosecution cannot be curtailed at this stage even if no independent witnesses were examined; and that the evidence of the police officers cannot be treated with suspicion and there is no reason to disbelieve their version at this stage.

5. It is seen from the final report that the prosecution has cited the following witnesses. L.W.1 is the Sub-Inspector of Police, who lodged the



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complaint. L.Ws.2 to 4 are formal witnesses who had signed the mahazar.

L.W.5 is the Investigating Officer. The prosecution has not chosen to examine any independent witnesses to establish that the cash in possession of the petitioner was meant to be used as a bribe to induce the voters to vote in a particular manner. There are no other materials to establish that the said cash was meant to be used as a bribe.

6. As rightly contended by the learned counsel for the petitioner, the only penal provision under which the petitioner has been charged is Section 171(E) of the Indian Penal Code, 1860. The said offence under Section 171(E) of the Indian Penal Code, 1860 is also non-cognizable. The other provisions referred to in the final report, namely, Section 171(B) of the Indian Penal Code, 1860, and Section 123(1)(A)(a) of the Representation of the People Act, 1951, are not penal provisions. Since the offence under Section 171(E) of the Indian Penal Code, 1860 is non-cognizable, the respondents would have no jurisdiction to investigate the case and could have proceeded with the investigation only after obtaining an order from the jurisdictional Judicial Magistrate under Section 155(2) of the Code of Criminal Procedure, 1973. In the absence of any such order from the jurisdictional Judicial Magistrate, the registration of the FIR and



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the subsequent investigation would be without jurisdiction. Consequently, the impugned final report, which is pursuant to an investigation conducted without jurisdiction, cannot be sustained. Therefore, this Court is of the view that the impugned prosecution is liable to be quashed.

7. Hence, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

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JEN

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

- 1.The Judicial Magistrate No.V,
Tirunelveli.
- 2.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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