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O.A.Nos.921 & 922 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.04.2026

Pronounced on : 02.06.2026

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

O.A.Nos.921 & 922 of 2024

in E.L.P.No.4 of 2024

B.Manickam Tagore

.. Applicant in both O.As.

Versus

- 1.V.Vijaya Prabakaran
- 2.Suresh
- 3.R.Radikaa
- 4.M.Ashok Kumar
- 5.S.Kaushik
- 6.S.Sekar
- 7.P.Palanichamy
- 8.S.Mariselvam
- 9.C.Muthukannu
- 10.G.Ganeshamoorthi
- 11.N.Sankaranarayanan
- 12.M.Sudalaimani
- 13.M.Selvakumar
- 14.V.V.Selvarajan
- 15.K.Selvi
- 16.K.Palanisamy
- 17.R.Pandiyammal
- 18.P.Mahendra Ramakrishnan
- 19.M.Manikandan
- 20.Mayak Kannan
21. M.Marieeswari
- 22.S.Rajagopal
- 23.Rajesh
- 24.V.K.Venkateswaran
- 25.Vedha @ Dhamodharan



O.A.Nos.921 & 922

26.T.Jayaraj

27.The Returning Officer

34—Virudhunagar Parliamentary Constituency

The District Collector

Virudhunagar

.. Respondents in both O.As.

Prayer in O.A.No.921 of 2024: Original Application filed under XIV Rule 80F of O.S.Rules read with Order VI Rule 16 of Code of Civil Procedure, praying to strike of the pleadings mentioned in the schedule as scandalous, frivolous, vexatious and abuse of process of law.

Prayer in O.A.No.922 of 2024: Original Application filed under XIV Rule 80 of O.S.Rules read with Order 7 Rule 11 of Code of Civil Procedure, praying for allowing the application and rejection of the election petition.

In both applications

For Applicant : Mr.Abdul Saleem, Senior Counsel
for Mr.S.Elambharathi

For Respondents : Mr.N.C.Ashok Kumar for R1

COMMON ORDER

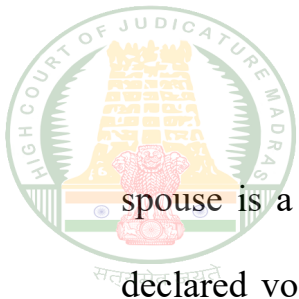
The first respondent herein filed election petition ELP. No. 4 of 2024 challenging the Election held on 19.04.2024 for 34, Virudhunagar Parliamentary Constituency on the grounds of improper acceptance of the nomination of the respondent/applicant herein and also for suppressing the material facts in the nomination



papers regarding the entire assets and criminal antecedents; bribing of voters-congress party guarantee card and cash distribution; votes were not counted due to erasing of mock poll votes; booth capturing; stoppage of vote counting; expenditure has been incurred more than the amount prescribed by the ECI and malpractices during counting of postal ballots.

2. The applicant in both the applications herein is the Returned Candidate and the first respondent in the Election Petition. The first respondent herein is the Election Petitioner.

3.a. It is alleged in the Election Petition that the applicant/first respondent filed his nomination on 25.03.2024 and the same was uploaded in the website of the Election Commission and were scrutinised and accepted on 28.03.2024. It is the contention of the petitioner that the first respondent has suppressed the information about the criminal antecedents, properties owned by him and his family members as well as his educational qualifications, which is contrary under Form 26 under Rule 4A of Conduct of Election Rules, 1961 and Section 33A of the Representation of People Act, 1961. Hence, it is the contention that failure to disclose the entire assets in the name of the candidate and his



spouse is a substantial lapse and the election of the returned candidate is liable to be declared void on this sole ground itself and this amounts to corrupt practice of undue influence within the meaning of Section 123(2) of the Representation of People Act read with Section 100(1)(b) of the Representation of People Act.

3.b. Another ground raised by the Election Petitioner is that the first respondent has involved in corrupt practice by way of bribing of voters through Congress Party Guarantee Card. It is the contention of the Election petitioner that the first respondent through Rajkumar, Raja Chockar, Virudhunagar, District Congress Party President, N.R.Kamaraj, K.K.Gurusamy, Sudha, Vairam, Ex.Councilor, Balakrishnan Ganesan, Manikandan, Srinivasagam, Kamatchi and Kadambavanam have indulged in various corrupt practices including the bribing of voters by distributing cash and inducing the voters by giving promises of providing Rs.1 lakh per annum to the voters namely Senthil Kumar, Vigneshkumar, Anandakumar, Saravankumar, Veiyilmuthu, Saikaliraj, Gurusamy, Paraman, Mohamed Iqbal, Abdul Azeez, Raj, Muthukrishnan and Chandrasekar under the scheme called "Congress Party Guarantee Card". The first respondent through Kadambavanam had distributed cards with a promise to pay money to Saikaliraj and Srinivasagam at Alagaulam Village on 16.04.2024 at 11.40 am. On 14.04.2024 around 1.55 pm at Tanthimaratheru, the first respondent through N.R.Kamaraj had distributed cards with a promise to pay money to



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Saravanakumar. On 16.04.2024 at 9 pm, the first respondent through Sudha, Vairam had distributed cards with a promise to pay money to Chandrasekar, Muthukrishnan. The first respondent has issued pamphlets containing the scheme Congress Party Guarantee Card promising to give one lakh rupee to housewives under the Mahalakshmi Scheme and Rupees one lakh per year to youngsters said to be the internship amount, once they come to power. In this regard, FIRs in FIR Nos.77 of 2024, 138 of 2024 and 48 of 2024 were registered. Hence, it is the contention of the Election Petitioner that the act of inviting or calling upon the individual voters to register themselves and creating an impression of one to one relationship between the voters under proposed benefit scheme is nothing but an inducement of voters for a quid pro quo. It is nothing but corrupt practices within the meaning under Section 123 of the Act.

3.c. Another ground raised by the Election Petitioner is that bribing of voters through cash. The first respondent through Seeni, Karupaiya and Pandi have distributed monies of Rs.500/- to the voters on 09.04.2024. In this regard, FIR was also registered in FIR.No.89 of 2024 on the file of Austinpatti Police Station. The following are the details:-

<i>S.No.</i>	<i>Date & Time</i>	<i>Place</i>	<i>Agents of R1 who bribed</i>	<i>Name of voters who were bribed</i>	<i>Name of persons who witness the incident</i>
1.	09.04.2024 at 7.00 pm	Uchapatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Rangaraj S/o.Veluchami	1.N.Kalyanasun daram S/o.Natarajan



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S.No.	Date & Time	Place	Agents of R1 who bribed	Name of voters who were bribed	Name of persons who witness the incident
					2.A.Ravi Alagarsamy S/o.Alagarsamy
2.	09.04.2024 at 7.00 pm	Uchapatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Vijayaram Bharathi S/o.Alagarsamy	1.N.Kalyanasun daram S/o.Natarajan 2.A.Ravi Alagarsamy S/o.Alagarsamy
3.	09.04.2024 at 7.00 pm	Uchapatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Kannan S/o.Balu	1.N.Kalyanasun daram S/o.Natarajan 2.A.Ravi Alagarsamy S/o.Alagarsamy
4.	09.04.2024 at 7.00 pm	Uchapatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Kannan S/o.Guruvan	1.N.Kalyanasun daram S/o.Natarajan 2.A.Ravi Alagarsamy S/o.Alagarsamy
5.	09.04.2024 at 7.30 pm	Pallakka Pudupatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Vivek S/o.Ramani	1.Vinoth Kumar S/o.Koppaiyan 2.Ram Kumar S/o.Pandi
6.	09.04.2024 at 7.30 pm	Pallakka Pudupatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Ajith S/o.Rajagopal	1.Vinoth Kumar S/o.Koppaiyan 2.Ram Kumar S/o.Pandi
7.	09.04.2024 at 7.30 pm	Pallakka Pudupatti Village	1.Seeni 2.Karuppaiah 3.Pandi	Rajesakar S/o.Gurusamy	1.Vinoth Kumar S/o.Koppaiyan 2.Ram Kumar S/o.Pandi
8.	09.04.2024 at	Pallakka	1.Seeni	Pandiann	1.Vinoth



S.No.	Date & Time	Place	Agents of R1 who bribed	Name of voters who were bribed	Name of persons who witness the incident
	7.30 pm	Pudupatti Village	2.Karuppaiah 3.Pandi	S/o.Rajagopal	Kumar S/o.Koppaiyan 2.Ram Kumar S/o.Pandi

3.d. Another ground raised by the Election Petitioner is that the votes were not counted due to failure to erase mock poll votes. It is the contention of the Election Petitioner that in 207, Aruppukottai in booth No.170, mock poll was conducted and without deleting the votes polled in mock poll, the EVM was used in the Bandalkudi polling station. In the said booth No.170 at 207, Aruppukottai Constituency 582 votes were polled, but without deleting the votes polled in the mock poll, the said EVM was used in Sivalingapuram Polling Station. Likewise, in 204 Sathur Constituency in booth No.59, mock poll was conducted. In the said booth, 615 votes were polled. There also without deleting the votes polled in mock poll, the said EVM was used for polling. The Returning Officer has passed a proceedings dated 24.04.2024 stating that the votes polled in the aforesaid two booths would not be counted as per 15.18.4 of Handbook of Returning Officers, 2023. It is the case of the Election Petitioner that failure to count the votes polled in the both booths has materially affected the result of the election of the Returned Candidate.

3.e. Another ground raised is Booth Capturing. In the polling booths of Thirumangalam Assembly Segments in Booth Nos.190, 191, 194, 308, 309, 273 & 311,



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during the closing hours of polling on 19.04.2024, the agents of the first respondent indulged in booth capturing. The petitioner's polling agents namely Venkatasamy, Ananda Kumar, Madhan Kumar, Pal Pandi, Kumar, Vigneswara Murthy, Bala Murugan, Karuppasamy and Velmuguan witnessed the booth capturing during the closing hours at the instance of the first respondent through his agents namely Duraisingam, Srinivasan, Murugesan, Kannan, Ramesh, Jeyaraj, Chinna Muniyandi, Chinna Marisamy and other persons.

3.f. Further, it is also alleged in the Election Petition that various malpractices were committed during counting of the votes polled in EVM, stoppage of counting, during counting of postal ballots. It is the contention of the Election Petitioner that the petitioner has got 3,80,877 votes and the first respondent has got 3,85,256. The victory margin was only 4379 votes. 10208 postal ballots were received. Out of which 1820 number of votes were rejected as invalid votes illegally and without assigning any proper reason. The Returning Officer has proceeded with the counting of votes polled in electronic voting machines by stopping the counting of postal votes half way through. This has vitiated the election process and materially affected the result of the election insofar as the returned candidate/applicant. On 04.06.2024, when the counting was in progress, the Returning Officer deliberately delayed declaration of votes in each round. When the counting for EVMs was commenced at 8.30 am on 04.06.2024, the trends in



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respect of other constituencies were made available. Further, as per 15.5.5 of the Handbook for Returning Officer, no person other than the commission's observer was allowed to carry a mobile phone inside the counting hall. In direct contravention of the above Rule, the DMK functionaries Subbaraj and K.M.Vijayakumar, who are the allied partner of the first respondent herein carried mobile phones and received instructions for various ruling government quarters.

3.g.It is also alleged in Election Petition that while the counting was in progress in respect of votes polled in EVMs on 04.06.2024, the Returning Officer abruptly stopped the counting around 1.45 pm stating that there will be lunch break for 30 minutes and requested the petitioner and his counting agents, namely Velmurugan, Radhakrishnan, Rajamanickam and Jayapandian to move out and come after lunch and that he will seal the EVMs and other records during lunch time. However, when the petitioner and his agents returned to the counting hall around 2.15 pm on 04.06.2024, they were shocked to note that the EVMs had not been sealed for lunch break and that the Returning Officer has proceeded with counting in the EVM in round numbers 11 to 17. It is the contention that during lunch break announced by the Returning Officer at 1.45 pm, only 10 rounds of counting had gone by and Rule 60 of Conduct of Election Rules, 1961 was violated. The petitioner was informed that the votes polled in favour of other candidates have been shown as polled in favour of the first respondent. Under the



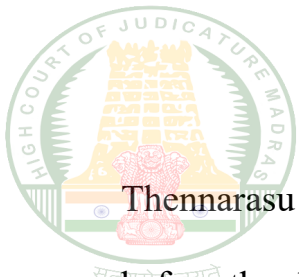
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guise of counting the EVMs in round nos.11 to 17, about 6000 votes have been added to the account of the first respondent illegally by clear manipulation behind the back of the petitioner.

3.h.Further, the Returning Officer out of 8288 postal ballot votes had rejected 1077 postal ballots and out of ETPBS category of 1920, 654 postals ballot votes were also rejected at the time of scrutiny itself and around 1200 number of votes which are liable to be rejected under Rule 54-A of Conduct of Election Rules, 1961 have been improperly accepted as valid votes which are otherwise invalid and void votes and this act of the counting materially affects the result of the election insofar as the Returned Candidate is concerned.

3.i. It is also alleged in the Election Petition that the counting in Virudhunagar constituency proceeded till late night on 04.06.2024 and the result was declared around 1 am on 05.06.2024, however, before that around 7.18 pm on 04.06.2024, the sitting Minister and son of the Chief Minister, Mr.Udhayanidhi Stalin, posted a message in his official handle of 'X' thanking the people giving victory in all the 40 constituencies in Tamil Nadu and Puducherry. At 9.26 pm, the Chief Minister of Tamil Nadu had announced that their alliance have succeeded in all 40 constituencies in Tamil Nadu and Puducherry. The sitting ministers such as K.K.S.S.R.Ramachandran, Thangam



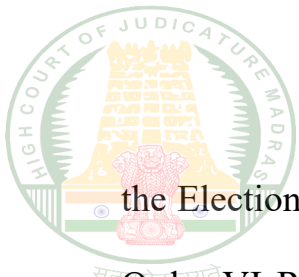
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Thennarasu and Moorthy have entered the counting hall in the midnight of 04.06.2024 before the declaration of results. They had a discussion with the Returning Officer and only thereafter, the Returning Officer declared the results. Everything was recorded in the CCTV. These ministers influenced the Returning Officer which enabled the applicant/first respondent to procure the assistance of the Returning Officer for the furtherance of the prospects of the election of the first respondent.

3.j.Yet another ground raised in the Election Petition is that excess expenditure incurred by the first respondent. The first respondent has not rendered true and proper accounts of the election expenses and the total amount spent by him exceeds the maximum amount allowable under the provisions of Representation of People Act. The applicant/first respondent has spent about Rs.15lakhs for erecting vinyl flux board, wall paper advertisements apart from erecting several poles containing the party flag. The expenditures for the aforesaid expenses were not properly accounted.

On these grounds, the Election Petitioner sought to declare the election of returned candidate as null and void.

4.The applicant/first respondent has filed his written statement in the above Election Petition. Besides, initially, the applicant in the present cases/first respondent in



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the Election Petition has taken out the instant applications in O.A.No.921 of 2024 under Order VI Rule 16 of CPC to strike off the pleadings and O.A.No.922 of 2024 under Order VII Rule 11 of CPC read with Section 151 of CPC to reject the Election Petition on the grounds that the Election Petition does not contain material particulars, disclose any cause of action, the pleadings were lacking in precision and were vague, unspecific, ambiguous and irrelevant to some extent also scandalous and hence amounted to abuse of process of the Court, the pleadings did not disclose any cause of action worth being tried by this Court and paragraphs 7 to 12, 13 to 16, 17 to 19, 20 to 28, 30, 32 to 42 of the Election petition No.4 of 2024 are liable to be struck off and therefore, the election petition is liable to be rejected. The contention of the returned candidate for rejecting the election petition para-wise are as follows:-

<i>Para-wise</i>	<i>Contentions</i>
7-12	Contains sweeping and bald allegations without any material particulars. No materials facts concerning criminal antecedents and assets allegedly suppressed by the Returned Candidate in his nomination.
13-16	The issuance of Guarantee Card does not amount to corrupt practice, the scheme is part of the manifesto of the Party. It is only the promise of future Government.
17-19	The promises under Guarantee Card is from political manifesto and the same is based on the circular dated 02.05.2024, Election Commission imposed prohibition, but, before that the said date election was completed in Tamil Nadu on 19.04.2024.
20-22	The election petitioner did not state that he had personally witnessed, but, on verification, the election petitioner stated



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<i>Para-wise</i>	<i>Contentions</i>
	that he had personal knowledge. Merely stating some names, places, date and time without producing any documents or evidence that the offence was committed with the consent of returned candidates, the allegations are not maintainable.
23	The Election Petitioner has not raised any objection for the acceptance of the said procedure being followed by the Returning Officer. The allegation did not raise cause of action and are purely by way of an afterthought
24	No complaint was given for the alleged booth capturing, in the absence of the same, it remains only as bald allegations.
25-26	No objections were raised during the counting of votes
27-28	Regarding the stoppage of the counting, no material particulars in support of the allegations have been filed. No complaint was raised during the counting of votes regarding the stoppage of counting.
29-39	No complaint was given during the counting process, in the absence of the same, it remains only as bald allegations.
40-43	No material proofs have been filed with regard to the excess expenditure incurred by the Returning Candidate, in the absence of the same, it remains only as bald allegations.

5. This Court vide common order dated 04.03.2025 rejected the aforesaid applications and dismissed the same. As against the dismissal order, the Returned Candidate/applicant filed SLPs before the Hon'ble Supreme Court in SLP. (C).Nos.10834-10835 of 2025, wherein, the Hon'ble Supreme Court vide order dated 21.04.2025 remanded the matter back to this Court. The relevant paragraphs read as follows:-

" 4.During the course of hearing, learned Senior Counsels have



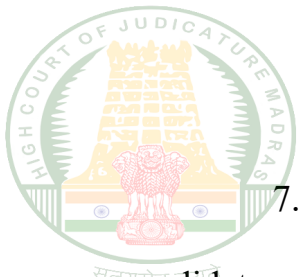
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taken us to the averments made in the Election Petition as well as the contents of the two applications moved by the appellant herein. In addition, a pointed reference has been made to the facts disclosed by the appellant in Form-26.

5. On going through the above-stated material, we are satisfied that both the applications, moved by the appellant, require reconsideration by the High Court. It seems that some of the pleadings in the Election Petition are liable to be struck off. However, whether the entire Election Petition can be rejected on acceptance of an application under Order VII Rule 11 CPC, is a debatable issue, which shall be resolved by the High Court afresh after hearing the parties.

6. Dr.Abhishek Manu Singhvi, learned Senior Counsel for the appellant submits that instead of pressing all the original grounds in the application under Order VII Rule 11 CPC, the appellant shall submit an additional affidavit restricting the grounds which he now propose to plead before the High Court. A similar opportunity shall be granted to the Election Petitioner also.

6. It is relevant to note that before the Hon'ble Supreme Court, the applicant/Returned Candidate herein has taken a stand that instead of pressing all the original grounds in the application under Order VII Rule 11 CPC, he will submit an additional affidavit restricting the grounds, which the applicant proposed to plead before this Court, however, now, once again, all the grounds raised earlier is sought to be canvassed. Though an additional affidavit has been filed, the applicant has not chosen to restrict any grounds raised under Order VII Rule 11 of CPC, despite the undertaking given before the Hon'ble Supreme Court.



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7.a. Be that as it may, the learned senior counsel for the applicant/returned candidate submitted that as far as allegations contained in paragraphs 7 to 12 with regard to the suppression of criminal cases and assets, no details whatsoever is adduced to prove the criminal cases faced by the applicant. The allegations are vague, without mentioning the specifics of what exactly has been suppressed, hence, paragraphs 7 to 12 are liable to be struck off.

7.b. As far as the allegations contained in paragraphs 13 to 19 that bribing of voters through Congress Party Guarantee Card is concerned, it is the contention that the issuance of Guarantee card does not amount to corrupt practice, the scheme is a part of manifesto of the party. It is only the promise of future Government. The allegation with regard to the issuance of Guarantee Card amounts to corrupt practice based on the prohibition imposed in the Model Code of Conduct Rules, issued by the Election Commission of India on 02.05.2024 is concerned, it is the contention that the subject election was held and polling was completed on 19.04.2024 itself and therefore, any averment based on the circular dated 02.05.2024 is baseless and not maintainable in law. In this regard, he relied upon a judgment of the High Court of Karnataka in *Election Petition No.14/2023* in the case of *Smt.B.Lakshmi Devi vs. Shri. Rizwan Arshad*, wherein it was held that the guarantees made as per the manifesto of a political party cannot be construed as "corrupt practice" under Section 123 of the Representation



of the People Act, 1951.

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7.c.As far as the contentions in paragraphs 20 to 22, except general allegations of bribery and distribution of cash, no particulars whatsoever made. Though he has given some name in Election Petition, on verification, he has stated that he had personal knowledge, whereas, in pleadings, he did not say that he has personal knowledge. Therefore, on this ground also, the entire pleadings has to go.

7.d.With regard to the allegations that the votes were not counted due to failure to erase mock poll votes is concerned, it is contention that it is only a bald allegation and the Election Petitioner has not raised any objection for the acceptance of the procedure being followed by the Returning Officer. Therefore, the same will not constitute cause of action. Similarly, with regard to the allegations of booth capturing, it is his contention that no complaint or FIR was registered. As far as the stopping of counting is concerned, no complaint was raised at the earlier point of time and no FIR has been registered.

7.e. Further, it was contended by the learned senior counsel for the applicant that some of the averments made in the election petition are unnecessary, scandalous, frivolous or vexatious, or tend to prejudice, embarrass or delay the fair trial of the election petition which are otherwise an abuse of the process of the Court.



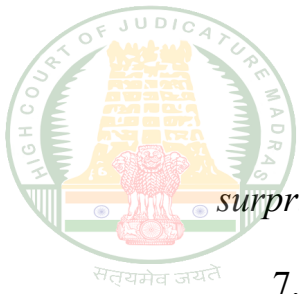
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7.f. In support of his submission, the learned senior counsel relied on the judgment of the Hon'ble Supreme Court in the case of *T.Arivanandam vs. T.V.Satyapal*, (1977) 4 SCC 467 for the proposition that if on a meaningful-not-formal-reading of the plaint, it is manifestly vexatious and meritless, in the sense of not disclosing a clear right to sue, the Court should exercise its power under Order VII Rule 1 of CPC taking care to see that the ground mentioned therein is fulfilled. If clear drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC.

7.g. Similarly, he relied upon the judgment of the Hon'ble Supreme Court in the case of *Azhar Hussain vs. Rajiv Gandhi*, 1988 Supp SCC 315 for the proposition that in the absence of any relevant material facts which would disclose the commission of corrupt practice, the election petition deserves to be dismissed.

7.h. Further, the learned Senior Counsel relied on the judgment of the Hon'ble Supreme Court in the case of *Gajanan Krishnaji Bapat vs. Dattaji Raghobaji Meghe* (1995) 5 SCC 347, wherein, it was held as follows:-

" A petition levelling a charge of corrupt practice is concerned, by law, to be supported by an affidavit and the election petitioner is also obliged to disclose his source of information in respect of the commission of the corrupt practice. This becomes necessary to bind the election petitioner to the charge levelled by him and to prevent any fishing or roving enquiry and to prevent the returned candidate from being taken by a



surprise.

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7.i. Further, relying on the case of *Ram Sukh vs. Dinesh Aggarwal* reported in (2009) 10 SCC 541 and in the case of *Hari Shanker Jain v. Sonia Gandhi*, reported in (2001) 8 SCC 233, he submitted that the material facts would include positive statement of facts as also positive averment of a negative fact, if necessary, and that in absence thereof, the Election petition is liable to be dismissed on that ground alone.

In all, the learned Senior Counsel submitted that the Election Petition is liable to be dismissed in limine and prayed to allow the present applications.

8.a. Mr.N.C.Ashok Kumar, learned counsel for the first respondent/election petitioner submitted that the Election Petitioner has denied the averments made in the affidavit and stated that the election petition discloses the cause of action and the material facts and particulars, the allegations are relevant and essential to grant relief sought for in the election petition filed under the Representation of People Act, 1951 and there is no ground to either strike off the pleadings or to reject election petition and the instant applications are liable to be dismissed.

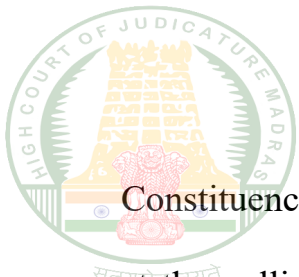
8.b. Further, he would submit that the election petitioner has met out the requirements under the provisions of the Act. With regard to the paragraphs 7 to 12 of the Election Petition, it is the contention of the counsel for the Election Petitioner that



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Returned Candidate has not disclosed the entire assets and criminal antecedents which are within his special knowledge and his family members and the same is contrary to Section 33A of the Representation of People Act. This has to be established only at the time of trial. The election petition has to be read out in toto and not as isolated paragraphs. While stating that material facts and particulars have to be given; at the very same time, Section 83 of the Act would stipulate that particulars have to be given as full as statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. Thus, the election petitioner has given all the possible materials to disclose the cause of action.

8.c. Further, the applicant under the pretext of party manifesto had distributed the congress party guarantee card with a promise to pay money inducing the voters to vote in favour of the applicant, this amounts to corrupt practice within the meaning of Section 123 of the Representation of People Act. It is not a general manifesto of the party, it is an one to one agreement with the voters. In this regard, FIRs in FIR Nos.77 of 2024, 138 of 2024 and 48 of 2024 were registered. It is also his contention that particulars with regard to distribution of money have been also furnished by the election petitioner and the persons who involved in distribution of money will be brought under trial. In this regard, FIR in FIR. No.89 of 2024 was registered; election has been conducted without deleting the mock poll in Booth No.170 @ Aruppukottai



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Constituency and Booth No.59 of 204 Sathur Constituency; booth capturing were done at the polling booth numbers 191, 104, 308, 309 & 273 of Thirumangalam Assembly Segment by the Returned Candidate.

8.d. Postal ballots votes were improperly rejected in violation of Rule 54A of the Conduct of Election Rules and 1200 votes have been accepted as valid votes which are otherwise invalid and void votes. Thus, the election petitioner has made out triable issues and the election petition cannot be dismissed in limine. The veracity of the statement contained in the Election Petition is not tested at this stage and the same can be decided only at the stage of the trial.

8.e. He relied on the judgment of the Hon'ble Supreme Court in the case of *Ajay Arjun Singh v. Sharadendu Tiwari* reported in (2016) 15 SCC 219 for the proposition that for the purpose of determining such an application, the averments in the election petition must be taken to be factually correct and thereafter examine whether such averments furnish the cause of action for granting the relief to the petitioner. The same principles of law are applicable even while adjudicating the application under Order VI Rule 16.”

8.f. Similarly, the learned counsel relied on the judgment of the Hon'ble Supreme Court in the case of *Virendar Nath Gautam vs. Satpal Singh* reported in (2007) 3 SCC 617 for the proposition that the Court cannot consider the correctness of



allegations and evidence in support of averments by entering into the merits of the case which would be permissible only at the stage of trial of the election petition and not at the stage of consideration whether the election petition was maintainable. Further, it was also held that it was, however, not necessary to “set forth full particulars”, which is the requirement of Section 83(1)(b) of “any corrupt practice”.

8.g. He also relied on the judgment of the Hon'ble Supreme Court in the case of *Mohan Rawale vs. Damodar Tatyaba* reported in (1994) 2 SCC 392 for the proposition that as long as the claim in election petition discloses some cause of action or raises some questions fit to be decided by a judge, the mere fact that the case is weak and not likely to succeed is not a ground for striking it out.

In all, the learned counsel for the Election Petitioner seeks for dismissal of these applications.

9. Heard the rival submissions made on both sides and perused the materials placed before this Court along with the election petition.

10. As already stated, though the applicant/Returned Candidate has taken a stand before the Hon'ble Supreme Court that instead of pressing all the original grounds in the application under Order VII Rule 11 CPC, he will submit an additional affidavit restricting the grounds, which the applicant proposed to plead before this Court,



however, now, once again, all the grounds raised earlier are sought to be canvassed.

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Though an additional affidavit has been filed, the applicant has not chosen to restrict any grounds raised under Order VII Rule 11 of CPC, despite the undertaking taken before the Hon'ble Supreme Court. In fact, all the grounds raised earlier are once again sought to be canvassed. The election of the returned candidate is sought to be cancelled by the Election Petitioner by filing the Election Petition No.4 of 2024 on the grounds of improper acceptance of the nomination of the respondent/applicant herein and also for suppressing the material facts in the nomination papers regarding the entire assets and criminal antecedents; bribing of voters-congress party guarantee card and cash distribution; votes were not counted due to erase of mock poll votes; booth capturing; stoppage of vote counting; incurred expenditure more than the amount prescribed by the ECI and malpractices during counting of postal ballots.

11. No doubt, Order VI Rule 16 and Order VII Rule 11 CPC would be applicable to proceedings under the Representation of the People Act, 1951. Further, this Court has power to strike out the pleadings even before filing of the written statement by the respondent, when it finds that the pleadings does not disclose a cause of action and the Court has powers to reject the petition under Order VII Rule 11 of the Code of Civil Procedure.



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12. In this case, on a perusal of the election petition No.4 of 2024, the same does not attract any of the conditions mentioned in Order VI Rule 16 and Order VII Rule 11 of Code of Civil Procedure and therefore it need not be struck out, the election petitioner discloses cause of action, the cause of action means bundle of facts, it can be gathered from the election petition in whole and it cannot be isolated from any of the particulars from particular paragraph and particular portion. The entire allegations in the election petitioner have to be taken into consideration to find out whether those allegations constitute a cause of action. The "material facts" and "full particulars" is well recognised in law. 'Material facts' constitute the foundational facts necessary to establish a cause of action, whereas, 'particulars' are details supporting such facts. It is well settled that an election petition cannot be rejected if it even discloses a triable issue. The strength or weakness of the case is wholly immaterial at this stage. So long as the pleadings raise issues requiring adjudication, the matter must proceed to trial. In this regard, it is relevant to note that the Hon'ble Supreme Court in *Madiraju Venkata Ramana Raju vs. Peddireddigari Ramachandra Reddy and others* reported in (2018) 14 SCC 1 has held that the Court has to consider the plaint as a whole to consider whether it reveals a cause of action for trial, court cannot dissect an election petition sentence wise or para-wise to rule that it does not disclose cause of action and the Court cannot merely



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focus on some pleading and leave out rest. It further held that if both the applications are filed at the same time, and Court decides to hear Order VII Rule 11 of CPC application in first instance, it should consider plaint as a whole, that does not mean that if it decides to take up Order VI Rule 16 first and strikes off some pleadings, it would not have to decide remainder of the pleadings for the purpose of Order VII Rule 11 to decide whether the plaint (after striking out pleadings) deserved to be rejected in limine.

13. In *Mohan Rawale vs. Damodar Tatyaba* reported in (1994) 2 SCC 392, the Hon'ble Supreme Court has held that as long as the claim in election petition discloses some cause of action or raises some questions fit to be decided by a judge, the mere fact that the case is weak and not likely to succeed is not a ground for striking it out.

14. In *Roop Lal Sathi vs. Nachhattar Singh Gill* reported in (1982) 3 SCC 487, the Hon'ble Supreme Court has held that a preliminary objection that the election petition is not in conformity with Section 83(1) (a) of the Act, i.e., it does not contain the concise statement of the material facts on which the petitioner relies, is but a plea in the nature of demurrer and in deciding the question, the Court has to assume for this purpose that the averments contained in the election petition are true. The election petitioner is not supposed to anticipate the defence and to state what he would have to say in answer



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to it and therefore, such statements need not find place in the petition. Further, it was held that where the plaint disclose no causes of action, it is obligatory upon the Court to reject the plaint as a whole under Order VII Rule 11 (a) of CPC, but the rule does not justify the rejection of any particular portion of a plaint. Therefore, the High Court could not act under Order VII Rule 11(a) of CPC for striking down paragraphs 4 to 18 of the election petition(therein) nor the High Court could act under Order VI Rule 16 in the absence of anything to show that the averments in paragraphs 4 to 18 of the election petition (therein) are either unnecessary, frivolous or vexatious, or that they are such as may tend to prejudice, embarrass or delay the fair trial of the election of constitute an abuse of process of the Court.

15. The learned senior counsel for the applicant relied upon a judgment of the High Court of Karnataka in *Election Petition No.14/2023* in the case of *Smt.B.Lakshmi devi vs. Shri. Rizwan Arshad*, wherein, it was held that the guarantees made as per the manifesto of a political party cannot be construed as "corrupt practice" under Section 123 of the Representation of the People Act, 1951. Admittedly, the Election Commission has issued Model Code of Conduct Circular dated 02.05.2024 which prohibits the distribution of guarantee cards in the form of pamphlets giving details of prospective individual benefit of voters. Though it is the contention of the learned senior



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counsel that the circular dated was 02.05.2024, whereas, the election was completed on 19.04.2024 and the circular dated 02.05.2024 cannot be applied retrospectively and will apply prospectively, the Election Commission has taken a conscious decision that the scheme of manifesto also amounts to promise and prohibited the same, now, it cannot be said that merely because prohibition takes place at a later date, the same will not amount to corrupt practice. Thus, the issue with regard to whether issuance of guarantee card amounts to corrupt practice when there is a prohibition by the Election Commission cannot be gone into at this stage.

16. Now, this Court would like to delve into para-wise allegations raised by the Election Petitioner and find out whether there is cause of action, material facts and full particulars which the Returned Candidate pleads absent in the Election Petition.

17. With regard to allegations raised in paragraphs 7 to 12 in the Election Petition with regard to the improper acceptance of nomination paper is concerned, though the Election Petitioner has not given any specific particulars with regard to assets and criminal cases pending as against the Returned Candidate, it is relevant to note that whether he had disclosed his entire assets in his name and his family members as well as the entire criminal antecedents could be established only at the time of trial. The assets



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and criminal cases are well within his special knowledge and only, when the Returned Candidate is confronted to trial, those details could be unearthed. Therefore, even assuming that no specific details is given with regard to improper acceptance of nomination paper, I am of the view that the same itself is not a ground to reject the entire election petition. It is also well settled that a suit or Election Petition cannot be rejected in part.

18. As far as the allegations raised in paragraphs 13 to 16 in the Election Petition with regard to the bribing of voters by issuing Congress Party Guarantee Card is concerned, though it is contended by the Returned Candidate that the issue of Guarantee Card does not amount to corrupt practice, the scheme is a manifesto of the Party, paragraphs 13 to 16 when carefully seen, the petitioner has given particulars about the persons who have distributed and who have received such cards with the consent of the Returned Candidate. In this regard, FIRs were also registered in FIR.Nos.77 of 2024 (Virudhunagar West Police Station), 48 of 2024 (Alankulam Police Station) and 138 of 2024 (Sivakasi Town Police Station). Thus, apart from filing the Doc.Nos.1,8,11&12, the Election Petitioner has provided sufficient pleadings by giving names of the persons who have distributed and who have received such cards with the consent of the Returned Candidate. The Election Petitioner in paragraph 17 to 19 has stated that though it



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appears to be a Guarantee Card of the political party, specific particulars of the voters like their address, mobile number, booth number have been obtained and such particulars are also pleaded in the Election Petition. Therefore, this Court is of the view that prima facie, there are materials to show that there was promise made to the individual voters and at this stage, whether it is merely a guarantee card issued by the Party or inducing the individual voters to vote for the first respondent in the election petition could be seen only on the basis of evidence to be adduced in the trial. When the names of persons distributing such cards and the beneficiaries have been pleaded in the Election Petition by the Election Petitioner, its veracity could be tested only at the time of the Trial.

19. As far as the allegations raised in paragraphs 20 to 22 in the Election Petition with regard to the bribing of voters by cash distribution is concerned, particulars with regard to the distributors of money and the beneficiaries are also pleaded in the Election Petition. In this regard, FIR was also registered in FIR.No.89 of 2024 on the file of Austinpatti Police Station. As far as the allegations raised in paragraph 23 in the Election Petition with regard to votes not counted due to failure to erase mock poll votes is concerned, particulars such as Booth No.170 @ Aruppukottai Constituency and Booth No.59 of 204 Sathur Constituency have been pleaded. Similarly, with regard to the



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allegations raised in paragraph 24 in the Election Petition with regard to booth capturing is concerned, particulars such as polling booth numbers 191, 104, 308, 309 & 273 of Thirumangalam Assembly Segment and the persons involved in such booth capturing are pleaded. Similarly, with regard to allegations contained in other paragraphs, this Court is of the view that the Election Petitioner has pleaded sufficient material facts and particulars in the Election Petition. Therefore, the disputed facts and issues cannot be decided in these applications filed to reject the Election Petition itself. Though the parties have elaborately made certain allegations and counter allegations in order to prove or disprove their contentions, the same cannot be appreciated by this Court nor any findings can be given in these applications.

20. At this juncture, it is relevant to extract Section 83 of the Representation of the People Act, 1961.

" 83. Contents of petition.—(1)An election petition—
(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.



(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition."

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21. Section 83(b) makes it clear that what is required is full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of such practice. On reading of the election petition, this Court is of the view that sufficient materials have been pleaded. The correctness of the statements made in the election petition cannot be gone into at this stage and the same can be decided only at the stage of the trial. Whether guarantee card issued by the polling agents amounts to promise by the returned candidate are all matter of trial and the same cannot gone into at this stage.

22. Thus, this Court has no hesitation in arriving at a conclusion that the Election Petition cannot be held as vague or bereft of material facts. The material facts contended, must be considered at the time of conduct of trial and not at this stage. When prima facie allegations are disclosed and such allegations are traceable with reference to the provisions of the Representation of the Peoples Act, then this Court at this stage cannot reject the Election Petition in limine, but to proceed with the trial, which would be appropriate in the interest of justice. This being the position, this Court is of the considered opinion that the prayer for rejection of the Election Petition is unacceptable



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and accordingly, this Court is inclined to proceed with the Election Petition in accordance with law.

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23. Accordingly, these applications are dismissed. No costs.

24. Registry is directed to post the Election Petition No.4 of 2024 on 9.7.2026 for trial.

02.06.2026

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

Speaking Order/Non Speaking Order

N. SATHISH KUMAR, J.



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O.A.Nos.921 & 922 of 2024

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Pre-delivery common order made in
O.A.Nos.921 & 922 of 2024
in E.L.P.No.4 of 2024

02.06.2026