



Crl.OP(MD)No.3010 of 2024, batch

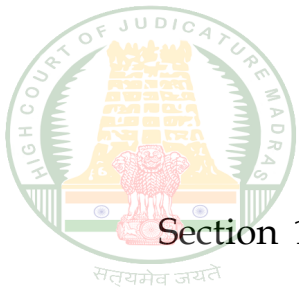
Crl.OP(MD)Nos.3010, 3187 and 3216 of 2024

WEB **B.PUGALENDHI,J.,**

The petitioners, who are facing a charge under Section 171(E) IPC, have filed these petitions to quash the proceedings pending against them on the ground that the final reports are filed beyond the period of limitation.

2.On the allegation that the petitioners had distributed money to the voters during the election conducted in the year 2011, the cases have been registered. After ten years, the final reports were filed and the concerned Judicial Magistrates have also taken cognizance of the same. Now, the petitioners have approached this Court that the final reports have been filed and cognizance have been taken beyond the period of limitation and therefore, they sought for quashing the proceedings under Section 468 Cr.P.C.

3.The petitioners have also raised a plea that for the offence under Sections 171(E) and 188 IPC, a private complaint has to be filed before the concerned Judicial Magistrate as per the provisions under



Section 195(1A)(1) Cr.P.C, which is not done in the present cases and

therefore, they sought for quashing the proceedings.

4. Heard the learned Counsel appearing for the respective parties.

5. The allegation against this petitioners is that they have bribed the voters during the election conducted in the year 2011. The cases were registered for the offence u/s.171(E) IPC.

Section 171(E) IPC is extracted as under:-

“171E. 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:

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.”

6. Democracy is the basic principle in our constitution. Our country is the largest democratic country in the world. The sculptural inscriptions would show that democracy prevailed in our country even during the ancient times.



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7.However, of late, gratifications are being made to the electors in the form of money, food, prizes, etc. Such gratifications would demolish the very basic structure of the constitution and democracy. But, it appears that the legislature has not treated this offence proportionate to its gravity and has treated it as an offence punishable for an imprisonment to an extent of one year. Resultantly, the practice of distributing money / gift to the voters have not been reduced and the cases reported for distribution of money during elections are raising in every election.

8.Even in today's newspaper, it is reported that for the ensuing parliamentary elections, Rs.4,650/- Crore have been seized so far. Its hardly 15 days have passed and 65 more days is there for this election season. The amount so far recovered for this 15 days period is higher than the amount which have been recovered during the entire election conducted in the year 2019.

9.Squads are being constituted by the Election Commission for monitoring the movement of money. No doubt, cases are also being



registered for bribery. However, it appears that since the penal actions

contemplated for this offence is not effective, the cases are registered for some statistical purpose and the investigation agencies are not prosecuting the cases any further. The present cases on hand are a clear example. For the cases registered in the year 2011 for distribution of money, final reports are filed after ten years, enabling the parties to get the proceedings quashed on the grounds available under the Code.

10. During the course of the hearing, Mr.R.Anand, a learned Advocate from the Bar, submitted that most of the FIRs registered for the offences under Sections 171(E) IPC are not at all reaching the Court and in very few selective cases alone, final reports have been filed. He further submitted that in none of the cases, nobody has been convicted so far, though, every year, cases are registered and the Election Commission is also giving press releases that several crore of rupees and prizes have been recovered, which were meant for distribution for voters.

11. In order to ascertain the mechanism which is in vogue for effective prosecution of these cases, this Courts directs the learned



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Government Advocate (Crl.Side) to get instructions as to the

WEB COPY (i) number of cases registered in the previous Parliamentary Election, 2019 and State Assembly Election, 2021 for the distribution of money / bribery to the voters;

(ii) the stage of those cases; and

(iii) details of the cases, if any, ended in conviction.

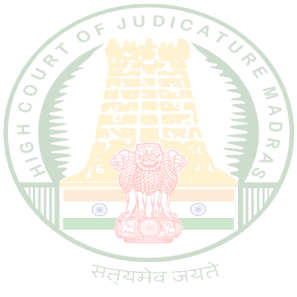
12.This Court also requests the State Election Commission, Tamil Nadu, to explain as to how they are following up with the cases that are being registered for electoral offences. The Election Commission shall also offer its suggestions, if any, for effective prevention of gratification to the voters. Mr.Niranjan Rajagopalan, learned Counsel for the Tamil Nadu State Election Commission, is directed to get instructions in this regard.

13.Mr.R.Anand, learned Counsel, shall assist this Court in this matter as *Amicus Curiae*.

Call on **17.04.2024**.

16.04.2024

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WEB COPY **Note:**

1. Issue order copy by today (16.04.2024) itself;
2. Mark a copy of this order to
 - a) The Tamil Nadu State Election Commission,
No.208/2, Jawaharlal Nehru Road,
Arumpakkam, Chennai - 106.
 - b) Mr.R.Anand, learned *Amicus Curiae*
 - c) Mr.Niranjan Rajagopalan, learned Counsel for State Election Commission



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