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The Hon'ble Mr.Justice C.V.KARTHIKEYAN

Election Petition No.3 of 2021

Date : 08.10.2024

Time : 10.30 A.M.

Name : Chelladurai (PW2)

Cross Examination by Mr.T.V.Ramanujam, Learned Senior Counsel for the First Respondent.

**Solemnly affirmed:**

Q1: When did you read through the election petition?

A: I have read the election petition. I even read through it in the morning.

Q2:Earlier, when did you read through the election petition?

A: I do not remember.

Q3:According to you, are you well acquainted with the facts and circumstances of the case?

A:Yes.

Q4:You went to the advocate's office along with the election petitioner at the time of preparation of the election petition. What do you say?

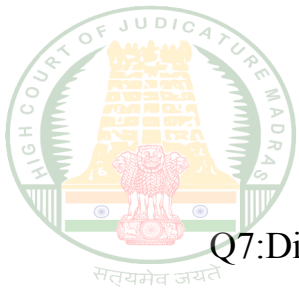
A:Yes, I went along with him.

Q5:Did Chellapandian come with you and the election petitioner to the advocate's office at the time of preparation of the election petition?

A:No, only the election petitioner and I went to the advocate's office.

Q6:Other than you and the election petitioner, did anyone else come to the advocate's office at the time of preparation of the election petition?

A:No.



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Q7:Did the election petitioner bring any note book containing any information at the time of preparation of the election petition to the advocate's office?

A:No. We only brought the documents available with us.

Q8:Do you know English and can you answer in English?

A:I know English but I am unable to answer in English.

Q9:Are you a practising Advocate?

A:Yes.

Q10:When did you go through the proof affidavit of the Election Petitioner?

A:At the time when it was prepared.

Q11:How many times have you gone to the advocate's office along with the election petitioner for preparation of the election petition?

A:I do not remember.

Q12:Did you go to the advocate's office at the time of preparation of proof affidavit of the election petitioner?

A:I do not remember having gone there.

Q13:Who prepared the proof affidavit filed by you?

A:It was prepared by my advocate on my instructions.

Q14:Which advocate prepared your proof affidavit?

A: Advocates from Wilson Associates.

Q15:(The proof affidavit is shown to the witness) Is it correct that there is no jurat portion for having explained the contents in Tamil?

A: Yes.

Q16:In which place did you sign in your proof affidavit?

A:I signed before the notary.



Q17: Have you got records to show that you were the Chief Election Agent of the Election Petitioner between 12.03.2021 and 21.04.2021?

A: The Returning Officer had appointed me as Chief Election Agent between 15.03.2021 and 21.04.2021. I do not have the records at present. They were handed over to the Returning officer.

Q18: According to you, you were appointed as the Chief Election Agent by the Election Petitioner?

A: Yes.

Q19: Were you given a photo ID card?

A: Yes, the Returning Officer had given me a photo ID Card. Since a new Chief Election Agent was appointed on 22.04.2021, I surrendered my photo ID card to the Returning Officer.

Q20: Do you have any acknowledgement for having surrendered your photo ID card to the Returning Officer?

A: No.

Q21: Did you give anything in writing to the election petitioner with regard to the allegations made in para 4 of your proof affidavit?

A: Yes.

Q22: When did you give?

A: I gave at the time when the elections were happening.

Q23: Can you tell the date?

A: I do not know.

Q24: (Election petition is shown to the witness) Did you go through para 20 of the election petition before preparing your proof affidavit?

A: Yes, I read the election petition.



Q25: In your proof affidavit, you have alleged even the portions in para 20 of the election petition that have been struck off by this Court?

A:I have mentioned about the complaint given by me to the Returning Officer in my proof affidavit.

Q26:Have you referred to any date of the alleged complaint in para 4 of your proof affidavit?

A:Yes, I have mentioned the date of the complaint i.e., 30.03.2021 in para 4 of my proof affidavit.

Q27:Did you give any police complaint about what you have alleged in para 4 of your proof affidavit?

A:No.

Q28:Did you give any complaint in writing to the Election Expenditure Observer with regard to what you have alleged in para 4 of your proof affidavit?

A:No.

Q29:Did you give any complaint in writing to the Flying Squad with regard to what you have alleged in para 4 of your proof affidavit?

A:No.

Q30:Did you give any written complaint either to the District Election Officer or to the Chief Election Officer of Viralmalai Constituency with regard to the allegations made by you in para 4 of your proof affidavit?

A:No, I did not give any written complaint.

Q31:Have you noted down what you have alleged in para 4 of your proof affidavit in any note book, diary or paper on 12.03.2021 or 30.03.2021?

A:No, I have not noted down but I have given a complaint to the Returning Officer on 30.03.2021.



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Q32: Did you give anything in writing to the election petitioner regarding the allegations made in para 4 of your proof affidavit either on 12.03.2021 or 30.03.2021?

A: No. Witness volunteers: I only informed him over the phone. My complaint between 12.03.2021 and 30.03.2021 was that the two leaves symbol was painted all over the constituency.

Q33: In which number did you telephone the election petitioner about what you have alleged in para 4 of your proof affidavit?

A: I do not remember.

Q34: What was your mobile number at that time?

A: My mobile number at that time was 9123505811.

Q35: Have you got that mobile phone with you?

A: Yes.

Q36: Can you produce that mobile phone?

A: Yes.

Q37: On what date did you telephone to the election petitioner about the allegations made in para 4 of your proof affidavit?

A: I do not remember.

Q38: Was it between 12.03.2021 and 30.03.2021?

A: Yes.

Q39: You have earlier stated that you gave in writing to the election petitioner about the allegations made in para 4 of your proof affidavit. Did you write it down in a sheet of paper?

A: Yes, I wrote down in a sheet of paper.



Q40:I put it to you that what all you have stated in para 4 of your proof affidavit are false and invented for the sake of this case.

A:I deny.

Q41:Kindly take para 5 of your proof affidavit. Have you noted down what you have stated in para 5 of your proof affidavit in any note book, diary or paper?

A:Yes, I have noted them down, but I do not know where it is now.

Q42:Did you give anything in writing to the election petitioner about what you have alleged in para 5 of your proof affidavit?

A:No. I have not given anything in writing.

Q43:Did you make telephone call to the election petitioner about what you have alleged in para 5 of your proof affidavit?

A:I would have informed him over the phone and also in person.

Q44:According to you, you have informed the election petitioner about Ranjithkumar, Nagaraj and Subbiah when you went with the election petitioner to prepare the election petition?

A:I do not know whether I informed about them or not to the election petitioner.

Q45:Did you give any police complaint about what you have alleged in para 5 of your proof affidavit.

A:No, I did not file any complaint.

Q46:Did you give any written complaint to the Flying Squad or Election Expenditure Observer about what you have alleged in para 5 of your proof affidavit?

A:No. I only informed the Returning Officer and the control room that there were paintings of the two leaves symbol over phone.



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Q47:What was the telephone number of the control room?

A:I do not know.

Q48:What was the telephone number of the Returning Officer?

A:I do not remember it now.

Q49:Why have you not mentioned about these alleged phone calls in para 5 of your proof affidavit?

A:I forgot to mention it.

Q50:Did you telephone the election petitioner about what you have stated in para 5 of your proof affidavit? If so, on which date?

A:I telephoned the election petitioner but do not remember the date.

Q51:I put it to you that what all you have alleged in para 5 of your proof affidavit are false and invented for the purpose of this case.

A:I deny.

Q52:Did you give any complaint in writing to anyone on 25.03.2021?

A:No, I did not give.

Q53:(Ex.P68 is shown to the witness) Did you give Ex.P68 complaint to the Returning Office in person or by post?

A:I gave this complaint in person.

Q54:You have not produced any proof of service by way of acknowledgement. What you say?

A:Yes. I have not produced any acknowledgement.

Q55:Who prepared this certificate under Section 65B of the Indian Evidence Act, 1872?

A:It was prepared by my advocate on my instructions.

Q56:Ex.P68 is a photocopy, what you say?

A:Yes, the original has been given to the Returning Officer.



Q57:From which document did you take the photocopy, Ex.P68 in your election office?

A:I do not remember.

Q58:Do you know how to operate a Xerox machine?

A:No.

Q59:Who told you that the model of the Xerox machine is Canon 3245?

A:I enquired from the Xerox shop and they told me.

Q60:What was the serial number of the Xerox machine that was referred to in your certificate under Section 65B of Indian Evidence Act?

A:Only the model number 3245 is mentioned and the serial number is not mentioned.

Q61:What was the serial number of the Xerox machine?

A:I do not know the serial number of the Xerox machine?

Q62:Did you ask for the serial number of the Xerox machine before preparing the certificate under 65B for Ex.P68?

A:I did not ask for the serial number.

Q63:I put it to you that the allegations made in the Ex.P68 against the 1<sup>st</sup> respondent are all false and the 1<sup>st</sup> respondent has nothing to do with the wall paintings.

A:I deny.

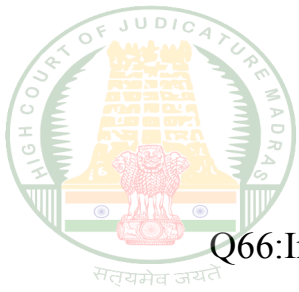
Q64:I put it to you that Ex.P68 is a false complaint.

A:I deny.

Q65:I put it to you that the certificate under Section 65B of the Indian Evidence Act for Ex.P68 filed by you is false and not valid in law?

A:I deny.





Q66:In para 6 of your proof affidavit, you have alleged about an oral complaint given by you to the Returning Officer. Did you give any such information in writing to the election petitioner?

A:I did not give the information in writing. I went in person and informed him about it.

Q67:On what date did you go in person and informed the election petitioner?

A:I did not remember the date.

Q68:I put it to you that the allegation in para 6 of your proof affidavit about an oral complaint to the Returning Officer is false.

A:I deny.

Q69:(Ex.P69 is shown to the witness) Who prepared Ex.P69?

A:I wrote it myself.

Q70:According to Ex.P69, the election petitioner obtained permission for canvassing on 04.04.2021 between 5.PM and 6 PM in Viralimalai, Kadaiveethi, is it correct?

A:Yes.

Q71:Where is the original of Ex.P69?

A:It is with the Returning Officer.

Q72:From which document did you take Ex.P69 photocopy?

A:I took this photocopy from the petition given by me to the Returning Officer.

Q73:What was your mobile phone number from which you allegedly took the photocopy of Ex.P69?

A:I do not remember.

Q74:Did you take Ex.P69 photocopy from your mobile phone?



A:I do not remember how I took this photocopy.

Q75:You do not know how to operate a Xerox machine, what do you say?

A:Yes, I do not know.

Q76:Who prepared the 65B certificate for Ex.P69?

A:It was prepared by my advocate on my instructions.

Q77:In this 65B certificate, you have not mentioned the serial number of the Xerox machine. What do you say?

A:Yes.

Q78:In the 65B certificate to Ex.P68 you have referred to a Xerox machine. You have also referred to a Xerox machine in the 65B certificate to Ex.P69. Are both the Xerox machines the same?

A:Yes. They are the same.

Q79:You have not produced any proof of service for Ex.P69 photocopy?

A:Yes.

Q80:(Ex.P67 shown to the witness) Have you seen Ex.P67?

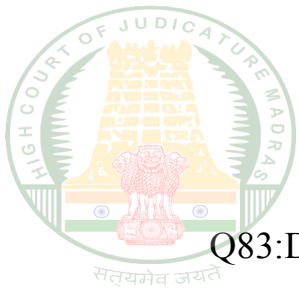
A:Yes.

Q81:Who obtained this permission under Ex.P67?

A:I obtained this permission.

Q82:As per Ex.P67, the election petitioner was permitted to canvass in Viralimalai on 04.04.2021 between 5 PM and 6 PM by travelling in his campaign vehicle. What you say?

A:Yes. He can canvas in his campaign vehicle.



Q83: Did the election petitioner go to the Kadaiveethi in Viralimalai for canvassing in his campaigning vehicle as per the permission obtained in Ex.P67 on 04.04.2021 between 5 PM and 6 PM?

A: No, he was not allowed to canvass.

Q84: I put it to you that what you are stating now is false.

A: I deny.

Q85: What is the distance between the Kadaiveethi in Viralimalai and the check post in Viralimalai?

A: The check post is in Kadaiveethi. They both signify the same place.

Q86: I put it to you that the distance between Kadaiveethi and check post is 350 metres.

A: I do not know.

Q87: I put it to you that the Kadaiveethi area and check post area are different and that you are falsely deposing.

A: I deny.

Q88: Is there any school near the check post area in Viralimalai?

A: Yes.

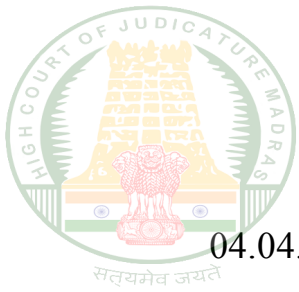
Q89: Do you know the distance between the school in check post area and Kadaiveethi?

A: I do not know the distance.

Q90: How many vehicles followed the campaigning vehicle of the election petitioner on 04.04.2021 between 5 PM and 6 PM at Viralimalai?

A: I do not know. Witness adds: Both the parties canvassed in the same area but were permitted in different timings.

Q91: Did you go along with the election petitioner for canvassing on



04.04.2021 between 5 PM and 6 PM in Viralimalai?

A:I did not go along with him, but I was also there.

Q92:Did you go to Viralimalai on that day by any vehicle?

A:Yes, I went by vehicle.

Q93: By which vehicle, two wheeler or four wheeler?

A:I went by two wheeler.

Q94:Apart from you, how many persons were there with the election petitioner for canvassing in Viralimalai?

A:There were many people, but I do not know the exact number.

Q95: Were there 100 people canvassing along with the election petitioner on that day in Viralimalai?

A: More than 100 people would have been there. But I do not know the exact number.

Q96:Did Chellapandian come for canvassing along with the election petitioner on 04.04.2021 between 5 P.M. and 6P.M. to Viralimalai?

A: I do not remember.

Q97:According to you, you had your mobile with you when you went for canvassing for the election petitioner in Viralimalai?

A:I went for campaigning but I do not remember whether I had my mobile phone or not.

Q98:Did the election petitioner carry his mobile phone with him on 04.04.2021 to Viralimalai?

A:I do not know.



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Q99: Who were all on the campaigning vehicle of the election petitioner on 04.04.2021?

A:I do not remember as to who are all the person in the campaigning vehicle of the election petitioner.

Q100:In this case, you are deposing evidence based on your memory?

A:Some facts are based on my memory.

Q101:Did anyone record on their mobile phone about what Sasirekha allegedly spoke on 04.04.2021?

A:I do not know whether anyone recorded her speech or not. We saw her speaking in person and photos were taken.

Q102:According to you, who took the photos?

A: I do not know. Several peoples took photos.

Q103:According to you, the photos were taken on mobile phone?

A:I do not know how the photos are taken. Witness adds: My phone had nothing to do it.

Q104:According to you, are you saying that nobody who accompanied the election petitioner recorded what Sasirekha allegedly spoke on 04.04.2021?

A:I do not know whether anyone who accompanied the election petitioner recorded what Sasirekha allegedly spoke on 04.04.2021 or not.

Q105: At what time, did the election petitioner go to Viralimalai on 04.04.2021 in his campaigning vehicle?

A:About 5.10 to 5.15 P.M.

Q106: Where from did the election petitioner travel to Viralimalai?

A:He came from a nearby area.

Q107:You cannot tell the exact place from where the election petitioner came to Viralimalai?



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A: Yes, I am unable to say.

Q108: Did you accompany the election petitioner to Viralimalai on that day?

A: No, he came with important people. I was there.

Q109: According to you, you were the Chief Election Agent of the election petitioner on 04.04.2021?

A: Yes.

Q110: Who were all the other important persons with the election petitioner on that date?

A: I do not know the names of those persons.

Q111: Do you know that the total area of Viralimalai is 509 sq.kms.?

A: I do not know.

Q112: Do you know how many wards are there in Viralimalai?

A: I do not know.

Q113: You earlier said that someone took photographs? Are you there in those photographs?

A: No, I was not there in the photographs. I was standing in a corner.

Q114: How long were you standing in the corner?

A: About 20 mins.

Q115: I put it to you that the allegations made by you in paragraph No.8 of your proof affidavit are false and invented for the purpose of this case.

A: I deny.

Q116: I put it to you that the allegations made by you in paragraph No.9 of your proof affidavit are false and invented for the purpose of this case by way of false evidence?

A: I deny.



Q117(Ex.P70 is shown to the witness):Who downloaded the First Information Report in Ex.P70?

A:I do not know who downloaded it.

Q118(Ex.P69 is shown to the witness):I put it to you that Ex.P69 is a false complaint.

A:I deny. Witness adds: I saw the incident in person.

Q119: Do you know whether there was any investigation based on Ex.P70, FIR?

A:I do not know what happened after Ex.P70, FIR.

Q120:Where did you see the pink paper seal tag bearing number V481815?

A:I saw it in the strong room in Government Women's Arts and Science College in Pudukottai.

Q121:According to you, you informed Mr.Chellapandian about the pink paper seal tag?

A:Yes.

Q121:Did Mr. Chellapandiyan give a complaint in this regard?

A:Yes.

Q121:Based on the complaint of Mr. Chellapandiyan, the election officials opened the strong room in the presence of the election petitioner, Chellapandian and others and inspected the EVMs in the strong room, what do you say?

A:Yes, the Collector, the Superintendent of Police and the Returning Officer were present.

Q122: The Election Officials found that the paper seal tag bearing no. V481815 was pertaining to an EVM used in mock poll only, what you say?

A:I do not know.



Q123(P71 is shown to the witness):Did you give Ex.P71 to the Returning Officer either in person or by post?

A:I gave Ex.P71 to the Returning Officer in person.

Q124:You have not produced any acknowledgement in writing by proof of service, what do you say?

A: Yes.

Q125:What are the basic documents from which you took the photo copies of Ex.P71?

A:I took it from the original.

Q126:On what date did you take the photocopies?

A:I do not remember.

Q127:Who took the photocopy, Ex.P71?

A:I do not know.

Q128:Who prepared the certificate under Section 65B for Ex.P71?

A:It was prepared by my Advocate's office on my instructions.

Q129:I put it to you that the certificate under Section 65B for Ex.P71 is a false certificate and not valid in law.

A: I deny. Witness adds: I myself lodged the complaint.

Q130:I put it to you that you are deposing false evidence in this case in order to oblige the election petitioner.

A:I deny.

Re-examination: Nil.

Time: 12.40 P.M