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Order QR

O.A.Nos.917 & 918 of 2026 in E.L.P.No.33 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.09.2026

PRONOUNCED ON : 30.09.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Original Application Nos.917 & 918 of 2026

in

E.L.P.No.33 of 2026

OA.No.917 of 2026

Regupathy. S

...Applicant

Vs

1.CHINTHAMANI.C
2.THE RETURNING OFFICER,
No.181-Thirumayam Legislative Assembly
Constituency, Office of the Returning Officer,
Thirumayam Taluk Officer, Thirumayam,
Pudukkottai District.

3.LAKSHMI SRINIVASAN
4.VAIRAMUTHU .PK
5.SUBBIAH .A
6.MUTHUKARUPPAN .CN
7.RAMSINGH .SK
8.RAJA.K
9.ESWAR.S
10.SATHISHKUMAR.M
11.CHINNATHAMBI .P
12.SUBRAMANIAN .P
13.DURAIRAJAN .M
14.RAMNATH .T



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O.A.Nos.917 & 918 of 2026 in E.L.P.No.33 of 2026

15.THE ELECTION COMMISSION OF INDIA,
NIRVACHAN SADAN, ASHOKA ROAD, NEW
DELHI-110001

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...Respondents

Prayer : Original Application filed under Order XIV Rule 8 of O.S. Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967 r/w Order VI Rule 16 of the Code of Civil Procedure, 1908, to strike off paragraphs 6 to 42 of the election petition in the above Election Petition No.33 of 2026

For Applicant : Mr.P.Wilson,
Senior Counsel
for Mr.Richardson Wilson

For Respondents: Mr.P.Valliappan,
Senior Counsel
for Mr.R.M.Arun Swaminathan for R1
Mr.Niranjan Rajagopalan for R2 to R15

OA.No.918 of 2026

Regupathy. S

... Applicant

Vs.

1.CHINTHAMANI.C

2.THE RETURNING OFFICER,

No.181-Thirumayam Legislative Assembly Constituency, Office of the Returning Officer, Thirumayam Taluk Officer, Thirumayam, Pudukkottai District.

3.LAKSHMI SRINIVASAN

4.VAIRAMUTHU .PK

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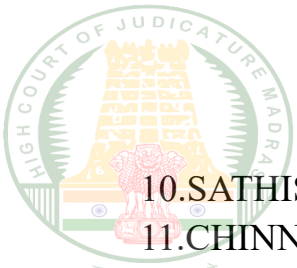
6.MUTHUKARUPPAN .CN

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10.SATHISHKUMAR.M

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15.THE ELECTION COMMISSION OF INDIA,

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001 ... Respondents

For Applicant : Mr.P.Wilson,
Senior Counsel
for Mr.Richardson Wilson

For Respondents: Mr.P.Valliappan,
Senior Counsel
for Mr.R.M.Arun Swaminathan for R1
Mr.Niranjana Rajagopalan for R2 to R15

Prayer : Original Application filed under Order XIV Rule 8 of O.S. Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967 r/w Order VI Rule 16 of the Code of Civil Procedure, 1908, to reject the above election petition No.33 of 2026.

COMMON ORDER

The Original Application in OA.No.918 of 2026 has been filed under Order VII Rule 11 of CPC seeking to reject the election petition in ELP.No.33 of 2026.

2. The first respondent filed election petition praying as follows:

(a) Declare the election of the second respondent namely

Mr.Regupathy S, from No.181-Thirumayam Legislative



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Assembly Constituency as null and void;

(b) Direct production and inspection of all election records relating to No.181-Thirumayam Legislative Assembly Constituency and consequently order verification and recount of the votes polled therein;

(c) Declare the petitioner herein as the Returned Candidate for No.181-Thirumayam Legislative Assembly Constituency for the Tamil Nadu Assembly Elections, 2026;

(d) Pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case and thus render justice

3. The General Election to 17th Tamilnadu Legislative Assembly, 2026 were notified and accordingly the elections were held on 23.04.2026 and the counting was held on 04.05.2026. The election results were declared on 05.05.2026. The applicant filed his nomination to contest in the election to Tamilnadu Legislative Assembly from No.181, Thirumayam Legislative Assembly Constituency. His nomination was scrutinised and on being satisfied, his nomination was accepted. Polling was held on 23.04.2026 and the election results were declared on 04.05.2026. The applicant was declared as returned candidate from No.181, Thirumayam Legislative Assembly Constituency. The margin of



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victory between the applicant and the first respondent was 1492 votes. The applicant was elected under the party banner Dravida Munnettra Kazhagam. The first respondent contested under the banner of Thamizhaga Vetri Kazhagam and lost his election by the margin of 1492 votes.

4. The crux of the election petition is that the applicant is a seasoned, longstanding politician who enjoys considerable influence among the governmental authorities and public officials functioning within the district and neighboring regions. He was elected from the Thirumayam Legislative Assembly Constituency in the year 1991 and thereafter served as a Member of Parliament representing the Pudukottai Parliamentary Constituency in the year 2004. He was once again elected from the Thirumayam Legislative Assembly Constituency for the term 2016–2021. Therefore, he has acquired considerable prominence and influence within the constituency and surrounding regions.

5. In his nomination for the 2021 Assembly Election, he disclosed the pendency of 26 criminal cases. However, in the affidavit submitted in connection with the 2026 Assembly Election, he stated that no criminal cases were pending against him. Despite this, without considering the omission, his nomination was blindly accepted, and he was allowed to contest in the election. The sudden disappearance of the criminal cases, that too in the absence of any corresponding



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disclosure, requires further scrutiny. Although the applicant does not have access to complete records relating to the investigation, closure, disposal, or termination of the said proceedings, he reserves his right to place relevant materials on record upon securing them from the authorities concerned.

6. Further, during the counting of votes, the actions of the authorized counting agents gave rise to serious doubts regarding the correctness and transparency of the counting and tabulation process. Though they raised objections, these were not considered by the authorities, giving rise to serious and bona fide apprehensions regarding the correctness, transparency, and accuracy of the exercise.

7. Therefore, the election petitioner and her agents sought verification of the counting process in respect of specific polling stations and requested scrutiny of the relevant records to ensure that the votes actually polled were faithfully reflected in the final tabulation. However, the said representation was rejected without assigning any reasons. It was further alleged that the hurried procedures in the pace of counting and tabulation at the final stage gave rise to genuine and bonafide apprehensions regarding the accuracy, transparency, and integrity of the compilation and tabulation of votes.



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8. Consequently, the election petitioner submitted a representation on

May 4, 2026, for verification, scrutiny, and a recount in respect of Polling Station

Nos. 2, 8, 63, 64, 65, 70, 76, 138, 139, 145, 153, 154, 158, 162, 230, 285, and 292.

However, it was rejected without any valid reasons.

9. As a result, the applicant herein secured 58,201 votes, whereas the election petitioner secured 56,709 votes, leaving the applicant with a victory margin of only 1,492 votes. Therefore, the election petitioner filed an election petition seeking a declaration that the election of the applicant as null and void and that the election petitioner be declared the returned candidate for No. 181, Thirumayam Legislative Assembly Constituency in the Tamil Nadu Assembly Election, 2026.

10. Pending the disposal of the election petition, this application has been filed seeking rejection of the election petition and to strike off Paragraphs 6 to 42 as vague, bereft of material facts, and non-compliant with the requirements of Sections 80, 80A, 81 to 84, 100, and 101 of the Representation of the People Act, 1951



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11. The learned Senior Counsel appearing for the applicant submits that

all the allegations contained in the election petition are unnecessary, frivolous, scandalous, and vexatious. The election petition itself is liable to be rejected *in limine* on the ground that it is bereft of material facts and does not meet the requirements of the relevant statutory provisions. The allegations in their entirety fail to disclose any cause of action or material facts necessary to maintain the election petition. An election petition must contain full material facts relating to the averments and allegations raised, both to enable the successful candidate to defend themselves effectively and to weed out vexatious and frivolous litigation. All the allegations in the petition proceed merely on the assumption that because 26 criminal cases were disclosed by the applicant in the affidavit filed during the 2021 Tamil Nadu Assembly Election, those very same cases ought to have been disclosed in the present election. However, there is no legal obligation to disclose criminal cases that have been closed as of the date of filing the nomination affidavit. All the criminal cases shown in the earlier election affidavit (Form 26) have since been closed, and there is no statutory requirement to disclose closed cases in Form 26 for the present election. Furthermore, no criminal cases were pending against the applicant as of April 6, 2026, when filing the Form 26 affidavit for the 2026 election. Additionally, the election petitioner failed to plead the necessary material facts, such as the specific details of the alleged pending criminal cases—including Crime Numbers, registering police stations,



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complainants, charged offences, and the stages of the proceedings as of the date of

nomination. The election petitioner has not produced even a single piece of evidence or material to establish that any criminal case was pending against the applicant on the date of filing the nomination, i.e., April 6, 2026. In the absence of such material facts, the averments remain vague, baseless, and vexatious, intended solely to defame and embarrass the applicant. Therefore, the election petition cannot be sustained and is liable to be rejected. In support of his contentions, the learned Senior Counsel relied upon several judgments of the Hon'ble Supreme Court of India.

12. Per contra, the learned Senior Counsel appearing for the first respondent / election petitioner filed a counter-affidavit and submitted that the allegations in the election petition need not be established conclusively at the threshold. The proceedings dated May 4, 2026, cannot be treated as conclusive of the very issues raised in the election petition. During the counting of votes, the correctness of the counting process, the manner in which objections were dealt with, and the adequacy of the verification undertaken by the Returning Officer are matters that arise for adjudication in the main election petition. In fact, the specific grievance of the first respondent is that, notwithstanding the identification of particular polling stations and the objections raised in respect thereof, the impugned proceedings do not disclose any individual consideration of those



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objections or any station-wise verification. The election petition explicitly sets out

the material facts constituting the challenge. The scenario during counting, the

specific objections raised by her counting agents, and the requests for verification

and recounting of votes have all been specifically pleaded in the election petition.

Furthermore, the identified polling stations, as stated in the election petition, are

Nos. 2, 8, 63, 64, 65, 70, 76, 138, 139, 145, 153, 154, 158, 162, 230, 285, and 292.

Hence, verification, scrutiny, and a recount have been explicitly sought in respect

of these specified polling stations. Regarding the criminal cases, the allegations

form part of the factual background pleaded to establish the alleged nexus and

influence of the applicant over government officials. They do not constitute the

sole basis of the election challenge; whether such a nexus exists is a matter for

evidence and adjudication at the time of trial. On this ground alone, the election

petition cannot be rejected *in limine*. In support of his contentions, the learned

Senior Counsel relied upon the judgment of the Hon'ble Supreme Court of India in

K.K. Ramachandran Master v. M.V. Sreyams Kumar and Others, reported in

(2010) 7 SCC 428, wherein it was held that the pleadings must contain the

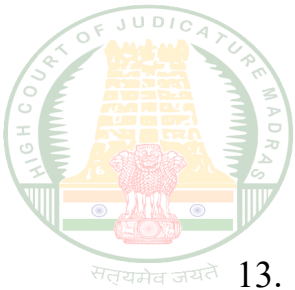
material facts constituting the cause of action, and not every minute piece of

evidence by which those facts are to be proved. It is coupled with the facts giving

rise to the challenge, and as such, the correctness of the order passed by the

Returning Officer is a matter for trial. Consequently, the vague objections raised

by the applicant are liable to be dismissed.



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13. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.

14. On perusal of the records and on submissions of the learned counsel appearing on either side, it is revealed that the election petition has been filed under Sections 80, 80a, 81 to 84, 100, 101 of Representation of People Act, 1951.

15. This Court has to consider the following in the application to reject the election petition:

(a) Whether the election petition consists material facts to file the election petition which meet the requirements of Sections 80, 80a, 81 to 84, 100, 101 of Representation of People Act?

(b) Whether the allegations made in the election petition raise sufficient cause of action to file the election petition?

(c) Whether the election petition is maintainable if nature and particulars of corrupt of practice are not pleaded?

(d) Whether the election petition meet any of the grounds to maintain the election petition under Section 100 of Representation of People Act?



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16. The crux of the averments in the election petition is of two folds.

Firstly, the Election Returning Officer failed to consider the representation submitted by the election petitioner alleging that the counting was not done properly without adopting fair, transparent and reasoned approach with reference to polling station Nos. 2, 8, 63, 64, 65, 70, 76, 138, 139, 145, 153, 154, 158, 162, 230, 285, and 292 and as such, sought for recounting of votes in respect thereof. Secondly, the returned candidate's nomination was not properly scrutinised when he suppressed the criminal cases which are pending against him. It is relevant to extract the provision under Section 83 of Representation of People Act hereunder:

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



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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.

17. Thus, it is clear that an election petition shall contain a concise statement of the material facts on which the petitioner relies. The material facts required to be pleaded are those facts that can be considered material to supporting the allegations made. There must be such facts as would afford the basis for the allegations made in the petition and would constitute a cause of action, as contemplated under the Code of Civil Procedure. Omission of a single material fact leads to an incomplete cause of action, making the statement of claim bad in law. Material facts are those primary facts that a party must prove at the trial to establish the existence of a cause of action. Failure to plead material facts is fatal to the election petition, and no amendment of pleadings is permissible to introduce such material facts after the expiration of the prescribed period of limitation for filing the election petition. Therefore, when considering an application to reject an election petition on the ground that it does not disclose a cause of action, this Court must look at the election petition and nothing else. This Court has consistently frowned upon vague pleadings that leave wide scope to adduce any evidence later. No amount of evidence can cure a basic defect in the pleadings. It is a settled legal position that all material facts must be pleaded by the party in

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support of the case set up by him within the period of limitation, as the object and purpose of this rule is to enable the opposite party to know the case they have to meet. In the absence of proper pleadings, a party cannot be allowed to lead evidence.

18. On a perusal of the entire election petition, it is revealed that all the allegations are vague, bald, and devoid of any basis. Although the election petitioner states that a proper counting process was not followed by the Returning Officer in several booths, the averments are completely silent on the specific manner and procedure in which the Returning Officer allegedly defaulted. Furthermore, the representation submitted by the election petitioner was made just before the declaration of the result—i.e., after the outcome had already become apparent. The representation dated May 4, 2026 (filed as Document No. 2) merely reveals that the election petitioner was dissatisfied with the final tally of votes. Consequently, the request for a recount of votes pertained to 18 polling booths (wherein one booth number was repeated). Thus, this demand was a mere afterthought; even during the counting process, neither the election petitioner nor her counting agents raised any objections regarding the procedure. In fact, all Electronic Voting Machines (EVMs) were counted booth-wise and round-wise. Upon the completion of each round for every booth, the counts were duly approved by the agents of the respective political parties and signed in Form 17C



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under the Conduct of Elections Rules, 1961. Therefore, the representation was

rightly rejected by the Returning Officer on the ground that each round of counting

for the respective booths was conducted properly, with signatures duly obtained

from the agents on Form 17C. Since the agents raised no objections and expressly

approved the counting at each round, there was no necessity to order a recount for

the requested booths. To iterate, submitting a representation seeking a recount

across 18 booths only after knowing the outcome of the election was purely an

afterthought. The margin of victory between the returned candidate and the

election petitioner stands at 1,492 votes. There is absolutely no justification for

ordering a recount of votes, particularly in the absence of valid and specific

grounds, as there is no scope for improper counting in Electronic Voting Machines.

During counting, the control units of the EVMs are activated, and the votes

recorded in favor of each respective candidate/party are displayed, tallied, and

duly verified by the counting agents. Insofar as postal ballots are concerned, each

individual ballot was opened, shown to all attending agents, and counted

accordingly. Significantly, there is no allegation raised in respect of the postal

ballots, and objections have been restricted solely to the EVMs in the specified 18

polling booths. Therefore, a recount cannot be granted as a matter of routine or

course. Unless the election petitioner provides clinching evidence in the petition to

support their objections, a recount cannot be ordered. Consequently, the

representation submitted by the election petitioner was rightly rejected by the



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Returning Officer. Thus, there is absolutely no cause of action to maintain this election petition, rendering it in contravention of Section 83 of the Representation of the People Act, 1951. Therefore if the election petition fails to disclose the foundational and material particulars and a complete cause of action, it is liable to be rejected at the threshold as per Section 83 of Representation of People Act r/w Order VII Rule 11 of CPC.

19. Insofar as the second allegation is concerned—that the applicant did not disclose the criminal cases pending against him in the affidavit submitted in connection with the 2026 Assembly Election—in Form 26, the applicant stated that no criminal cases were pending against him. On a perusal of the election petition, there is no pleading as to what specific particulars were suppressed, which First Information Report or criminal case remains pending against the applicant, or whether he has been convicted in any case. Form 26 clearly stipulates that a candidate must disclose the *pendency* of criminal cases; it does not mandate the disclosure of closed or disposed criminal cases, nor convictions that do not attract disqualification. Therefore, the applicant correctly stated that no criminal cases were pending against him as of the date of filing his nomination. Consequently, the pleadings in the election petition are vexatious and bereft of material facts. There is no legal obligation to disclose criminal cases that have been closed prior to or as of the date of filing the nomination and affidavit. All the



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criminal cases shown as pending in the Form 26 affidavit filed during the 2021

General Election have already been closed. Thus, there is no statutory requirement

to disclose the same in the Form 26 affidavit filed for the 2026 Legislative Assembly Election. The election petition is therefore vague, fails to disclose any material facts, and fails to establish a cause of action. All allegations contained therein are vague, scandalous, and vexatious, made with the sole intention to defame and embarrass the applicant. Both primary allegations have been made without specific pleadings or material facts; hence, there is no independent cause of action against the applicant to maintain the election petition.

20. Furthermore, the election petitioner has failed to plead how the result of the election was materially affected, which is a necessary ingredient when an election is challenged under the grounds provided under Section 100 of the Representation of the People Act, 1951. In the absence of such pleadings, it cannot be said that the result was materially affected. The election petition is entirely bereft of material facts, composed of unsubstantiated and bald allegations, and is liable to be rejected *in limine* for want of a cause of action. The Hon'ble Supreme Court of India and this Court have repeatedly held that a candidate duly elected through a democratic process to serve the people of a constituency cannot be subjected to the ordeal of a lengthily protracted trial on the basis of a vague and unsubstantiated election petition. The applicant has been duly elected from No.



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181 Thirumayam Legislative Assembly Constituency, and this Court finds that the

election petition does not disclose any cause of action and fails to satisfy the

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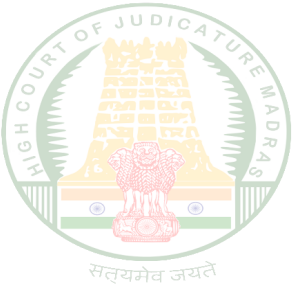
statutory requirements under the Representation of the People Act, 1951.

21. In view of the above, the original application in OA.No.918 of 2026 is allowed and the election petition in ELP.No.33 of 2026 is rejected. In view of the order passed in OA.No.918 of 2026, the original application in OA.No.917 of 2026 is closed.

30.09.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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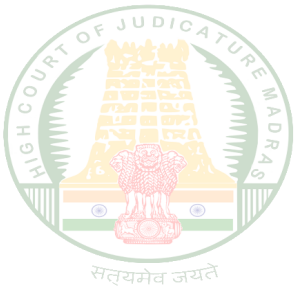
To

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2.THE ELECTION COMMISSION OF INDIA,

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