

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.12436 and 7052 of 2014

and M.P.Nos.1 and 2 of 2015 in Crl.O.P.No.12436 of 2014

and M.P.No.1 of 2014 in Crl.O.P.No.7052 of 2014

S.Stephen Arokia Selvam ... Petitioner in Crl.OP.12436 of/Accused -1 2014
John Rajkumar ... Petitioner in Crl.OP.7052 of 2014/Accused -2

Vs

1.The Inspector of Police
U-Managalam Police Station
U-Mangalam, Virudhachalam Taluk
Cuddalore District.(Criment
104/13)

.. R1
in Crl.OP.12436 of 2014 and
Sole respondent in Crl.OP.7052/2014

2.The Public Information Officer/Deputy Director
Teachers Recruitment Board
4th Floor, E.V.K.Sampath Building
College Road, Nungambakkam
Chennai 6.

3.Antony Peter
Crl.OP.12436 of 2014

.. R2 and R3 in

[R3 impleaded as per order of this Court dated 07.09.2015 in
M.P.3/2015 in crl.op.12436/15)]

Prayer:- Criminal Original Petition No.12436 of 2014 filed under
Section 482 Cr.P.C. to call for the records and quash the charge
sheet in C.C.No.168 of 2013 dated 31.08.2013 from the file of
Judicial Magistrate, Court, Neyveli.

Criminal Original Petition No.7052 of 2014 filed under Section 482
Cr.P.C. to call for the records in C.C.No.168 of 2013 on the file
of District Munsif cum Judicial Magistrate, Neyveli and quash the
same as illegal.

IN CRL.OP.NO.12436 OF 2014:

For Petitioner : Mr.G.Kadhiresan
For R1 : Mr.C.Emalias,
Addl.Public Prosecutor

IN CRL.OP.NO.7052 OF 2014:

For Petitioner : No appearance
For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

These petitions have been filed to call for the records in C.C.No.168 of 2013 on the file of District Munsif cum Judicial Magistrate, Neyveli and quash the same.

2. On a complaint lodged by Antony Peter [defacto complainant], the respondent police registered a case in Cr.No.104 of 2013 on 18.08.2013 for offences under Sections 420 and 511 IPC against the petitioners herein and after completing the investigation, has filed a Final Report in C.C.No.168 of 2013 before the learned District Munsif-cum-Judicial Magistrate, Neyveli, for the aforesaid offences, challenging which the petitioners are before this Court.

3. It is the case of the prosecution that the petitioners and the defacto complainant were working as temporary teachers in a private School and that, the petitioners promised the defacto complainant that they will get the question paper for the ensuing Teachers Eligibility Test conducted by the Teachers Recruitment Board, which was to begin on 18.08.2013. It is alleged by the prosecution that, the petitioners demanded Rs.4 lakhs from the defacto complainant for getting the question paper and when the defacto complainant was waiting for the petitioners to give the question paper, they did not turn up. On the aforesaid facts, the petitioners are facing prosecution for attempt to of cheating, namely Section 420 r/w 511 IPC.

4. These quash petitions have been filed by the accused on the ground that, they have amicably settled with the defacto complainant. The respondent police have filed a counter opposing the quashment of the prosecution. Antony Peter [defacto complainant] has filed an affidavit, wherein it is stated as follows in paragraphs 3 and 4:

"3. I submit that on the compulsion by the 1st respondent police herein the complainant was given against the petitioner alleging that the petitioner assured us that if Rs.4 lakhs paid with A1 on 17.08.2013 at 10 p.m. we can receive the question

paper for the examination would be conducted on 18.08.2013 but they did not turned up despite we waited there on 18.08.2013 at 8 PM, complaint received under force and against my will, even after the examination over. But the respondent police threatened me if I refused to give complaint against the petitioner that I will be falsely implicated in the same case u/s 420 r/w 511 IPC in Cr.No.69 of 2013. Thereafter laid charge sheet in C.C.168/2013 on 31.08.2013 on the file of JM, Neyveli. I was not known the offence said to have been committed by the petitioner. Thus, the complainant was given under force of 1st respondent police.

4. I respectfully submit that the petitioner did not attempt to cheat us at all, on 18.08.2013. Further I and other witnesses gave representation to the authority, DIG, S.P., D.G.P denying the complaint dated 18.08.2013 and 161(3) statements. Hence, we will not prejudice if this CrI.O.P.12436/2014 allowed quashing the charge sheet C.C.168/2013 on 31.08.2013 on the file of JM, Neyveli."

5. At the first blush, this Court was not inclined to quash the prosecution on the ground that the parties have arrived at a compromise, but on a close scrutiny of the Final Report and the statements recorded by the police it is seen that, there is no material worth the salt implicating the petitioners in the alleged offence. It is not the case of the prosecution that, these petitioners have received the money from the defacto complainant and thereafter, cheated him. It is the specific case of the prosecution that, these petitioners had told the defacto complainant that they have the question paper and if Rs.4 lakhs is given to them, they will part with the question paper. The fact remains that the defacto complainant did not part with any amount and the complaint has been lodged for the alleged promise made by the petitioners to the defacto complainant.

In the result, the prosecution in C.C.No.168 of 2013 only in respect of S.Stephen Arokia Selvam/A1 is quashed and CrI.O.P.No.12436 of 2014 is allowed. CrI.O.P.No.7052 of 2014 stands dismissed. Consequently, connected miscellaneous petitions are closed.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

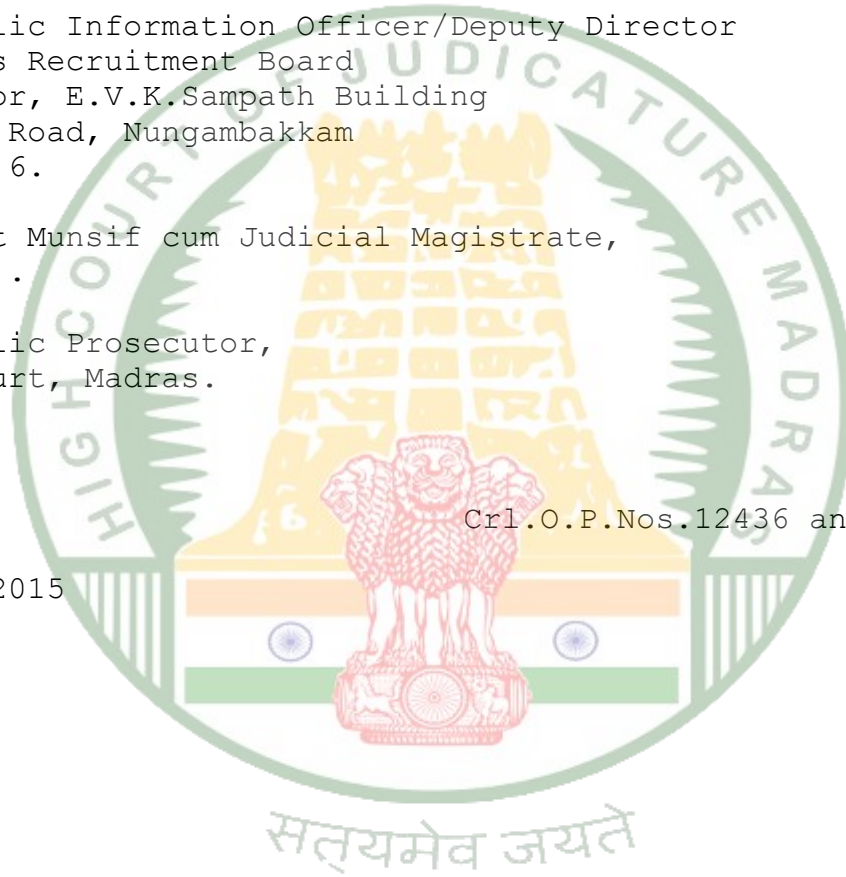
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To

- 1.The Inspector of Police
U-Managalam Police Station
U-Mangalam, Virudhachalam Taluk
Cuddalore District.
- 2.The Public Information Officer/Deputy Director
Teachers Recruitment Board
4th Floor, E.V.K.Sampath Building
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- 3.District Munsif cum Judicial Magistrate,
Neyveli .
- 4.The Public Prosecutor,
High Court, Madras.

GR(co)
cp 07/10/2015

Cr1.O.P.Nos.12436 and 7052 of 2014



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