

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 4-9-2015

Pronounced on : 8-9-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.2236 of 2015
M.P.Nos.1 and 2 of 2015

T. Anitha

.. Petitioner

Vs.

State rep.by

The Inspector of Police,
Central Crime Branch - Team 3,
Chennai Suburban Police,
St.Thomas Mount,
Chennai - 16.

.. Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to call for the records and quash the proceedings in C.C.No.3 of 2015 on the file of the learned Judicial Magistrate No.I, Poonamallee in Crime No.5 of 2009 on the file of the respondent.

For Petitioner : Mr.R.John Sathyan

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

On a complaint lodged by the Assistant Personnel Officer, Southern Railways, the respondent Police registered a case in Crime NO.5 of 2009, and after completing the investigation, have filed a final report in C.C.No.3 of 2015 before the Judicial Magistrate No.I, Poonamallee, for offences under Sections 177, 196, 198, 420 read with 468, 471 of IPC against the petitioner herein. The allegation in the final report is that this petitioner had submitted a fabricated community certificate claiming herself to be belonging to Scheduled Tribe and joined the Southern Railways under the Scheduled Tribe quota.

2. Mr.R.John Sathyan, learned Counsel appearing for the petitioner submitted that the petitioner was a juvenile at the time of commission of the said offence, inasmuch as she joined a

vocational course in Railways Commercial Department in the year 1996 when she was only 16 years, and at that time itself she submitted the impugned community certificate and she was absorbed as an employee in the Railways after the training period, when she attained majority. The learned counsel also submitted that the petitioner belongs to Konda Reddy community, which is a Scheduled Tribe and the genuineness of the community certificate held by her cannot be decided in a police investigation, but only in accordance with the law laid down by the Hon'ble Supreme Court in Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and Others ((1994) 6 SCC 241), pursuant to which the Government of Tamil Nadu has issued two orders viz., G.O.(2D)No.18, dated 1.4.1997 & G.O.Ms.No.106, dated 15.10.2012.

3. At the first blush Mr.R.John Sathyan's arguments did sound convincing. But on a closer scrutiny of the facts, it is not the case where the petitioner belonging to a particular community misrepresented to the authorities and obtained a community certificate with false particulars. In this case, the allegation against the petitioner is that the Certificate No.4017261 dated 13.7.1994 is per se a fabricated document and on the strength of that fabricated document, she has joined the Railways. The line of cases following Kumari Madhuri Patil's case (supra) relate to persons obtaining certificate from the authorities by misrepresenting that they belong to a certain community in the reserved category. Those line of precedents will never apply to cases where the certificates have been fabricated.

4. As regards the claim of juvenility, it should have to be first determined when the offence was committed. In cases of this nature only during the course of evidence the date of offence will surface. It is the assertion of the Police that the petitioner produced the fabricated certificate and joined the Railways. This petitioner could not have joined the Railways when she was a juvenile. Only after she attained the age of majority, she should have joined the Railways. If at that time, she had submitted this fabricated certificate, then there is no question of applying the Juvenile Justice Act in her favour. The contention of Mr.R.John Sathyan that the petitioner joined the training programme when she was about 16 years of age, and thereafter she was absorbed into the Railways, is at the most a defence that is being set up by the petitioner, which cannot be gone into in a petition under Section 482 Cr.P.C.

5. In the result, this petition is devoid of merits and the same is dismissed. Connected miscellaneous petitions are also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

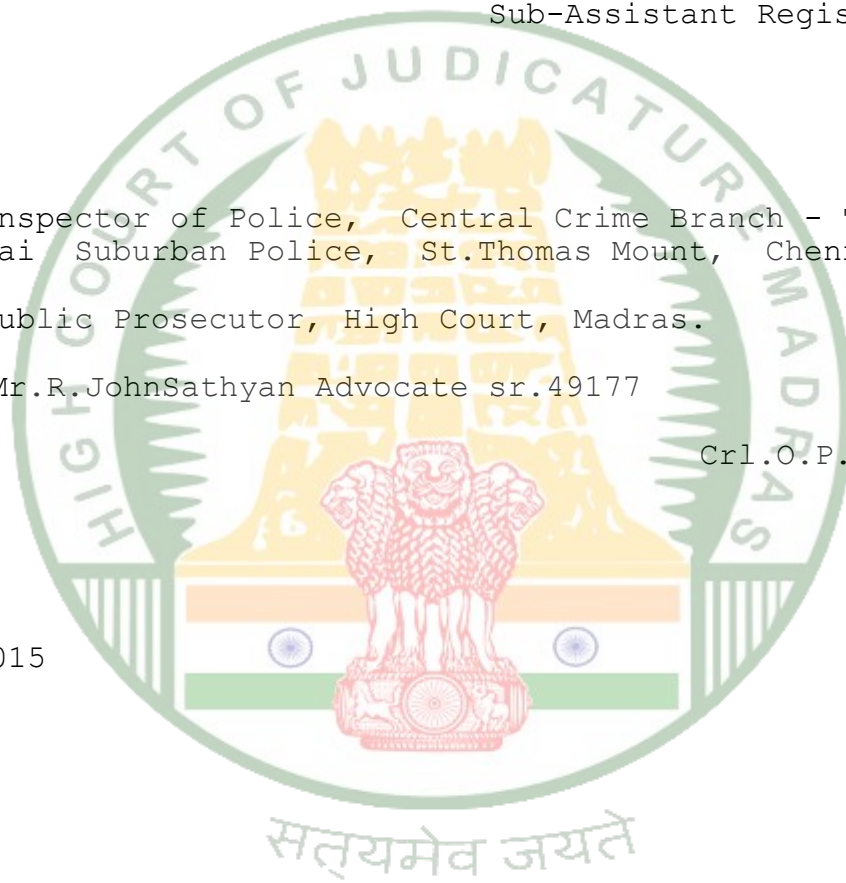
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To

1. The Inspector of Police, Central Crime Branch - Team 3,
Chennai Suburban Police, St.Thomas Mount, Chennai - 16.
 2. The Public Prosecutor, High Court, Madras.
- +1 cc to Mr.R.JohnSathyan Advocate sr.49177

CrI.O.P.No.2236 of 2015

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