



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.05.2017
CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P.(MD)No.11581 of 2016
and
Crl.M.P.(MD)No.5608 of 2016

Shahul Hameed : Petitioner / 1st Accused

Vs.

1.State Rep.by
The Inspector of Police,
Theppakulam Police Station (L&O),
Madurai District.
[Crime No.1069 of 2011] : Respondent /Complainant

2.The Passport Officer,
Bharathi Ula Street,
Race Course Road,
Madurai. : Respondent / Defacto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records in connection with Crime No.1069 of 2011 on the file of the 1st respondent police and Quash the F.I.R. insofar as the petitioner is concerned.

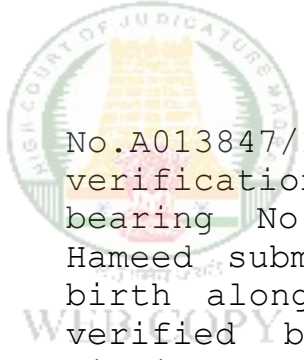
For Petitioner : Mr.V.Vengadasamy
For Respondent-1 : Mr.K.Anbarasan
Government Advocate (Crl.side)
For Respondent 2 : No appearance

O R D E R

On the letter given by the learned counsel for the petitioner on 25.04.2017, this petition has been listed in the special sitting.

2. On the complaint given by the Passport Officer, the respondent police registered a case in Crime No.1069 of 2011 on 09.07.2011 under Sections 465, 468, 471 and 420 IPC against two accused, challenging which, Shahul Hameed/A1 is before this Court with this petition.

3.On a reading of the FIR, it is alleged by the Passport Officer that Shahul Hameed/A1 applied for Passport vide file



No.A013847/10 dated 14.06.2010 and after getting a police verification report dated 23.07.2010, he was issued with a Passport bearing No.J2717963, dated 28.07.2010. It appears that Shahul Hameed submitted a Birth Certificate in support of his date of birth along with passport application, genuineness of which was verified by the Passport authorities with the Commissioner, Dindigul Municipality, Dindigul. On verification, it was found that the said Birth Certificate was not issued by the Commissioner, Dindigul Municipality and therefore, a show-cause notice was issued to Shahul Hameed and his explanation was sought. Not satisfied with the said explanation given by Shahul Hameed, the Passport Officer has lodged the present complaint, based on which, the FIR has been registered. Pursuant to which, Shahul Hameed was arrested and subsequently, released on bail.

4.Shahul Hameed filed Crl.O.P.(MD)No.4540 of 2012 for a direction to the respondent police to complete the investigation in Crime No.1069 of 2011. This Court passed the following order in Crl.No.4540 of 2012 dated 05.06.2012:

"3.It is represented on the side of the respondent that investigation relating to Crime No.1069 of 2011 has already been completed and a final report has also been filed.

4.Considering the nature of representation made on the side of the respondent, the relief sought for in the petition has become infructuous and therefore the present petition deserves to be dismissed.

5.In fine, this petition deserves dismissal and accordingly is dismissed."

5.Since it was represented that investigation was completed in Crime No.1069 of 2011, Crl.O.P.(MD)No.4540 of 2012 was closed. However, Shahul Hameed learnt that the police had not completed the investigation and therefore, he has filed the second quash application.

6.Heard Mr.Poorna Chandran, learned counsel for the petitioner and Mr.K.Anbarasan, Government Advocate (Crl.Side) for the 1st respondent.

7.On a perusal of the Case Diary, this Court finds that the Inspector of Police, Theppakulam Police Station has not done any investigation worthwhile for the last five years. May be, being a Law and Order Inspector, he did not find time to conduct the investigation in the case.

8.Mr.Poorna Chandran, learned counsel, explains that initially Shahul Hameed obtained a date of Birth Certificate dated 26.05.1999, in which, his father's name has been shown as 'A.Nagoor Meera' and his mother's name has been shown as 'Noorjahan'. Thereafter, he approached a broker by name, Malik (A2), who got the impugned Birth Certificate. The second accused, who, in collusion



with the third accused obtained another Birth Certificate on 24.09.2009, in which, the father of Shahul Hameed has been shown as 'A.Nagoor Meeran' and mother has been shown as 'Ansar'. The petitioner gave the second Birth Certificate to the passport authorities and got caught. Therefore, since there are prima facie materials in the FIR for the investigation to proceed, this is not a fit case to quash the prosecution at this stage. However, this Court is of the view that it will be in the interest of justice, if the FIR is transferred from the file of Theppakulam police station to the file of the City Crime Branch, Madurai.

9. Accordingly, this Court transfers the investigation in Theppakulam Crime No.1069 of 2011 to the file of the City Crime Branch, Madurai to be investigated by a competent officer of the rank of Assistant Commissioner of Police, City Crime Branch, to be nominated by the Commissioner of Police, Madurai. The Inspector of Police, Teppakulam is directed to handover the entire Case Diary in Crime No.1069 of 2011 in the office of the Commissioner of Police, City Crime Branch, Madurai, within two weeks from the date of receipt of copy of this order.

10. The Commissioner of Police, Madurai shall nominate a competent Assistant Commissioner of Police, to investigate the case. The investigation shall be completed within a period of six months from the date of receipt of copy of this order.

11. With the aforesaid observations and directions, this criminal original petition is disposed of. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Inspector of Police,
Theppakulam Police Station (L&O),
Madurai District.

2. The Passport Officer,
Bharathi Ula Street,
Race Course Road,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The Commissioner of Police,
Madurai City.



4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

+1 cc to M/R.S.POORNACHANDRAN ,Advocate, SR.NO:55517

Order made in
Crl.O.P.(MD)No.11581 of 2016
and
Crl.M.P.(MD)No.5608 of 2016

rmi/RR
SVA/MSA/11.05.2017/SAR4/4P/6C

Dated:02.05.2017