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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.06.2017
CORAM

THE HONOURABLE MR. JUSTICE P.N. PRAKASH
Crl.O.P.(MD) No.1543 of 2017 and
Crl.M.P.(MD) No.1264 of 2017

Padmanaban

... Petitioner/A1

-vs-

1. The State,
Rep. by Inspector of Police,
Kumbakonam East Police Station,
Kumbakonam, Thanjavur District.
(Crime No.485 of 2016)

... Respondent/Complainant

2. Jeyakumar

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pursuant to the FIR in Crime No.485 of 2016 pending on the file of the Inspector of Police, Kumbakonam, East Police Station, Kumbakonam, Thanjavore District and quash the same insofar as the petitioner is concerned and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case.

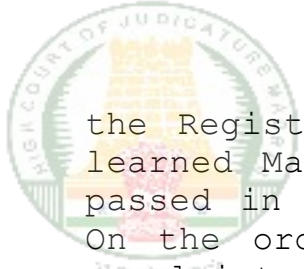
For Petitioner	: Mr.A.S.Vaigunth
For R1	: Mr.K.Anbarasan
	Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed to call for the records pursuant to the FIR in Crime No.485 of 2016 pending on the file of the Inspector of Police, Kumbakonam, East Police Station, Kumbakonam, Thanjavore District and quash the same insofar as the petitioner is concerned.

2. On the complaint lodged by one Jayakumar, Head Clerk of Judicial Magistrate Court No.2, Kumbakonam, the respondent police registered a case in Crime No.485 of 2016 on 12.11.2016 for the offences under Sections 420, 464, 465, 468 and 471 IPC against one Padmanaban/petitioner herein.

3. On reading of the FIR, it is seen that the Members of the Local Bar Association approached the learned Judicial Magistrate No.II, Kumbakonam and lodged a complaint that Padmanaban had obtained a birth certificate, as if issued by the Judicial Magistrate No.II, Kumbakonam for his son in C.M.P.No.2568 of 2016 on 05.05.2016, on the strength of which, he has made necessary alteration in the Birth and Death Register maintained by



the Registrar of Births and Deaths. On enquiry conducted by the learned Magistrate, it was found that the order dated 05.05.2016 passed in C.M.P.No.2568 of 2016 was a forged and fabricated one. On the orders of the learned Magistrate, the Head Clerk gave a complaint, based on which, the FIR has been registered against Padmanaban. Padmanaban was arrested on 12.11.2016 by the Police and during investigation, it came to light that one Marimuthu and Santhanam were also involved in the offence and the said Santhanam was a Court Staff. When the bail petition filed by Padmanaban in CrI.O.P.(MD) No.23298 of 2016 came up for final disposal before this Court, on behalf of the prosecution, the following representation was made:

"4.The learned Government Advocate (CrI.Side) for the respondent would submit that A1 in this case is an innocent and A2 and A3 alone issued forged order copy to the petitioner with the forged signature of the Judicial Magistrate and Court seal, as if the learned Judicial Magistrate has passed the order and based on which, the petitioner registered the birth of his son before the Sub Registrar Office, Thiruvidadaimaruthur and in turn, obtained the Birth Certificate of his son."

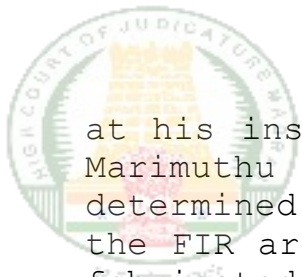
Therefore, Padmanaban is before this Court for quashing the FIR.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) appearing for the State.

5. Learned counsel for the petitioner contended that Padmanaban is a retired School Teacher and he wanted a birth certificate for his son. Therefore, he approached Marimuthu, a local Retired Revenue Inspector, who in turn took him to Santhanam / Court Staff. He also gave some money to both of them and on one fine day, they gave a Court Order in C.M.P.No.2568 of 2016, as if the Magistrate had passed the said order. Believing the bonafide of the order, Padmanaban presented the same to the Registrar of Births and Deaths and had the necessary entries made. Only when his son applied for passport, the passport authorities have found some discrepancy in the birth certificate and refused to issue passport. Thereafter, when Padmanaban made some enquiry, he learnt that he was cheated by Santhanam and Marimuthu. He further contended that it was Padmanaban, who brought this fact to the notice of the Bar Association, Kumbakonam and thereafter, the Bar Members approached the learned Judicial Magistrate No.II, Kumbakonam. Therefore, learned counsel for the petitioner submitted that it is a fit case for quashing the FIR.

6. Per contra, learned Government Advocate (CrI.Side) refuted the contention.

<https://hcservices.ecourts.gov.in/HCServices/> The considered opinion of this Court, the fact remains that Padmanaban has been shown as the petitioner in C.M.P.No.2568 of 2016 and the birth certificate was also obtained



at his instance. Whether the same was fabricated by Santhanam and Marimuthu in order to cheat him is the question, which has to be determined during investigation by the Police. The allegations in the FIR are indeed very serious inasmuch as a Court Order has been fabricated.

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8. Under such circumstances, this Court directs the Deputy Superintendent of Police, Kumbakonam to monitor the investigation in Crime No.485 of 2016 and take into consideration the aforesaid contentions made on behalf of Padmanaban to show that he himself was a victim at the hands of Santhanam and Marimuthu. In the course of investigation, if it is found that Padmanaban is innocent, it is needless to state that the prosecution against him shall be dropped and he should be taken as a prosecution witness as against the other accused.

9. With the above direction, this petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To:

- 1 The Deputy Superintendent of Police,
Kumbakonam.
- 2 The Inspector of Police,
Kumbakonam East Police Station,
Kumbakonam, Thanjavur District.
- 3 The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.A.S.Vaigunth, Advocate SR.No. 59705

Cr1.O.P.(MD) No.1543 of 2017
12.06.2017

JM/SKN/SAR 1/14.06.2017/3P/5C