

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.7891 of 2017

V.Mathivanan

.. Petitioner

Vs

1. The Director General of Police,
Police Headquarter, Kamarajar Salai,
Mylapore, Chennai.
2. The Superintendent of Police,
Erode District., Erode.
3. The Dy.Superintendent of Pokice,
Erode City Division, Erode.
4. The Inspector of Police,
Erode Taluk Police Station, Erode.
5. Mr.Velmurugan,
Zonal Dy.Thasildar,
O/o.The Zonal Dy.Thasildar, Erode. .. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the DSP/Inspector of Police Erode Taluk Police station, Erode to file an alteration memo IN THE CHARGE SHEET filed on 11.09.2015 pending before the Judicial Magistrate No.1 Court, Erode by adding the particular section attracts from the statement of witnesses recorded u/s 161 of Cr.P.C. and direct the Direct General of Police to take proper action against the concerned DSP and zonal Dy. Tahsildar by registering a case for the offence intentionally committed on the creation of fake community certificate.

For Petitioner : Dr.R.Sampath Kumar

For Respondents : Ms.M.Prabhavathi

Additional Public Prosecutor

O R D E R

On the complaint lodged by the petitioner, a case in Erode Taluk Police station, Crime No.693 of 2012 was registered

on 18.11.2012 under sections 324, 506(ii), 379(NP) of IPC and Section 3[1][x] r/w 3[1][9x] of SC/ST [POA] Act against one Magesh. After completing the investigation, the Deputy Superintendent of Police has filed a Charge Sheet in CC.No.59 of 2015 before the Judicial Magistrate No.I, Erode only for the IPC offences and not for the offences under the SC/ST Act against Magesh. Aggrieved by the Charge Sheet, the petitioner is before this Court with the above prayer.

2.Heard Dr.Sampath Kumar, learned counsel for the petitioner and the learned Additional Public Prosecutor.

3.Dr.Sampath Kumar submitted that the petitioner is a Dalit and therefore, provisions of the SC/ST Act was included in the FIR. However, during investigation, the Deputy Superintendent of Police has obtained a Community Certificate dated 28.12.2012 from the Zonal Deputy Tahsildar, Erode to the effect that the petitioner is a Christian Adi Dravidar. On the strength of such certificate, the provisions of SC/ST Act was not included in the Charge Sheet.

4.Dr.Sampath Kumar produced a certificate dated 25.09.1984, which shows that the petitioner belongs to Hindu Adi Dravidar. He submitted that the petitioner got converted to Buddhism and on conversion, a fresh certificate dated 11.03.2014, shows the petitioner as Buddhism Adi Dravidar. Therefore, he contended that the petitioner never embraced Christianity. He assailed the certificate dated 28.12.2012, by submitting that the Investigating Officer has obtained such a certificate from the Zonal Deputy Tahsildar, even without the signature of the Village Administrative Officer and that, the Zonal Deputy Tahsildar is not competent to issue community certificate for Dalits.

5.Per contra, learned Additional Public Prosecutor refuted the contentions.

6.Under normal circumstances, this Court will not interfere into this aspect. But, however, the materials produced by Dr.Sampath Kumar prima facie shows that the petitioner is a Dalit. The certificate dated 28.12.2012 given by the Zonal Deputy Tahsildar, Erode, does not even bear the signature of the Village Administrative Officer. The information obtained by the petitioner under the RTI Act shows that the Zonal Deputy Tahsildar conducted discreet enquiry and issued the certificate dated 28.12.2012. In matters of issuance of community certificate, the question of discreet enquiry is unknown. The authorities should have credible materials to show that the petitioner had converted to Christianity.

7.If a person converts to Christianity, he cannot claim prosecution of the accused under the SC/ST Act. Since, there are some doubts in the certificate dated 28.12.2012 issued by the Zonal Deputy Tahsildar, this Court directs the Deputy Superintendent of Police, Erode City Division to conduct further investigation in Erode Taluk PS Crime No.693 of 2012 (presently C.C.No.59 of 2015), in order to find out whether the petitioner was a Dalit as on the date of the incident. The further investigation shall be completed within a period of three months from the date of receipt of copy of this order and a supplementary report should be filed before the Judicial Magistrate No.I, Erode in C.C.No.59 of 2015.

8.Until then, further proceedings in C.C.No.59 of 2015 stands stayed. If it is found that the petitioner was a Dalit and not a Christian, as on the date of incident and if it is found that the offence was committed on the ground that he was a Dalit, it is needles to state that the case should be committed to the Special Court for SC/ST cases. If found otherwise, the trial in C.C.No.59 of 2015 before the Judicial Magistrate No.I, Erode shall proceed in accordance with law.

With the above direction, this petition is closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

pns/gya

To

- 1.The Judicial Magistrate No.I,
Erode.
2. The Director General of Police,
Police Headquarter, Kamarajar Salai,
Mylapore, Chennai.
3. The Superintendent of Police,
Erode District, Erode.
4. The Dy.Superintendent of Pokice,
Erode City Division,
Erode.

5. The Inspector of Police,
Erode Taluk Police Station, Erode.

6. The Public Prosecutor,
High Court, Madras.

+1cc to Dr.R.Sampath Kumar, Advocate SR.No.54992

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GN(21/08/2018)



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