



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESHCrl.O.P.(MD)No.9791 of 2016
and Crl.M.P.(MD)Nos.4931 & 4932 of 2016

S.Sadham Hussain

: Petitioner

Vs.1. The State rep by
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.
In Cr.No.59 of 2015.

: Respondent/Complainant

2. Rajeswari,
Passport Issuing Officer,
Passport Office, Madurai,
Officer at Bharathi UI Veethi,
Racecourse Road,
Madurai-2.: Respondent/Defacto
complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records to the impugned charge sheet in C.C.No.139 of 2015 on the file of the Judicial Magistrate, Mudukulathur, in Cr.No.59 of 2015 on the file of the first respondent and quash the same.

For Petitioner	: Mr.R.S.Sivaram
For R1	: Mr.M.Chandra Sekaran Additional Public Prosecutor
For R2	: No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.139 of 2015, pending on the file of the learned Judicial Magistrate, Mudukulathur.

2.The petitioner has been arrayed as Accused No.1 in this case. The case of the prosecution is that the petitioner had applied for issuance of passport before the Passport Officer at Madurai by giving fake birth certificate. Therefore, a complaint was given by

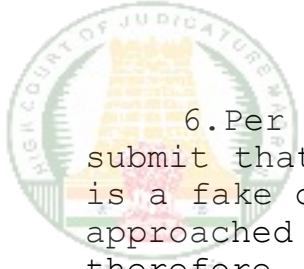


the Passport Officer and the respondent Police have registered the First Information Report in Crime No.59 of 2015 against the petitioner and two other persons.

3. It is seen from the records that the Secondary School Leaving Certificate that has been granted to the petitioner in the year 2006 clearly reflects that the petitioner's date of birth is 25.11.1989. The petitioner had approached the second accused, who was the Village Administrative Officer at the relevant point of time in order to get birth certificate for the purpose of applying for passport. The second accused had also given birth certificate to the petitioner. The petitioner was not really aware about the genuineness of the birth certificate given by the second accused, since the birth certificate also reflects the date of birth as 25.11.1989. The petitioner had also applied for issuance of passport based on the birth certificate given by the second accused. Only at a later point of time, the petitioner came to know that the birth certificate that has been given to him by the second accused is a fake birth certificate.

4. Thereafter, the petitioner had also given a complaint before the Superintendent of Police, Ramanathapuram against the accused Nos.2 and 3 on the ground that they have cheated the petitioner by giving fake birth certificate. The petitioner also approached this Court at the time when the First Information Report was pending for quashing the First Information Report. This Court passed an order in CrI.O.P.(MD)No.17772 of 2015, dated 14.09.2015, wherein this Court directed the petitioner to produce all the documents before the Investigating Officer and the Investigating Officer was directed to receive all the documents and conclude the investigation and file a final report. Pursuant to the same, the petitioner had handed over all the documents to the Investigating Officer on 14.09.2015. However, the Investigating Officer has filed final report by adding the petitioner as Accused No.1 in the case along with two other accused persons.

5. The learned counsel appearing for the petitioner would submit that the petitioner himself was a victim to the act committed by the accused Nos.2 and 3, who gave birth certificate to the petitioner. The learned counsel would further submit that there was absolutely no discrepancy in the date of birth shown in the birth certificate and therefore, the petitioner, believing that the certificate given by the accused No.2, who was the Village Administrative Officer at that point of time, was genuine certificate, acted upon and enclosed the same along with passport application. Immediately, on coming to know that the birth certificate is fake, the petitioner also had taken action by giving complaint before the Superintendent of Police, Ramanathapuram on 27.01.2015. He would further submit that the respondent Police have unnecessarily made the petitioner as accused in this case and they should actually proceed against the Accused Nos.2 and 3 alone, who had fabricated the birth certificate.



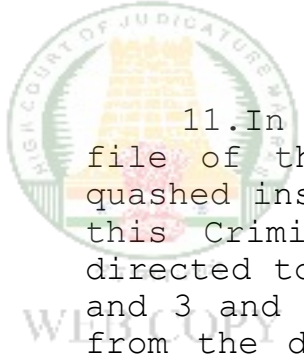
6. Per contra, the learned Additional Public Prosecutor would submit that the fact remains that the birth certificate in question is a fake document. He would further submit that the petitioner had approached the Accused No.2 and obtained this document and therefore, the petitioner should have known about the antecedents of the Accused Nos.2 and 3. Therefore, according to the learned Additional Public Prosecutor, the petitioner has to establish his innocence only in the course of trial before the Court below.

7. This Court has carefully considered the submissions made on either side. There is no controversy with regard to the actual date of birth of the petitioner, which is 25.11.1989 and the same is clear from the Secondary School Leaving Certificate given to the petitioner in the year 2006. It is also clear from the records that the petitioner has filed an appropriate application before the learned Judicial Magistrate, No.II, Ramanathapuram and based on the order passed by the Magistrate concerned, he has also obtained birth certificate on 15.10.2013. The said birth certificate reveals the fact that the date of birth of the petitioner is 25.11.1989.

8. The petitioner had believed and approached the Accused No.2, who was the Village Administrative Officer at that particular point of time in order to get birth certificate. Since the birth certificate that was furnished by Accused No.2 to the petitioner, contains the very same date of birth, there was no occasion for the petitioner to doubt about the authenticity of the said certificate. All the documents that have been relied upon by the petitioner, clearly show that the date of birth of the petitioner is 25.11.1989. Therefore, there was nothing much to gain for the petitioner by giving a fake birth certificate before the Passport Officer in order to get the passport.

9. It is further clear from all the facts that the petitioner himself was unaware of the fact that the birth certificate was a fake one. Immediately, on coming to know that the birth certificate is a fake document, the petitioner has also given a complaint before the Superintendent of Police, Ramanathapuram. The petitioner himself was a victim of circumstances and he never doubted the credentials of the Accused Nos.2 and 3, when he approached them and he came to know about the true colours of the Accused Nos.2 and 3 only when the Passport Officer started to take action against the petitioner on the ground that he has submitted fake birth certificate.

10. This Court, while considering the petition to quash the First Information Report, had also directed the petitioner to submit all the documents to the Investigating Officer. However, the Investigating Officer in this case has not properly appreciated the documents submitted by the petitioner and has mechanically added the petitioner also as an accused person. In the considered view of this Court, no offence has been made out as against the petitioner.



11. In the result, the proceedings in C.C.No.139 of 2015 on the file of the learned Judicial Magistrate, Mudukulathur, is hereby quashed insofar as the petitioner herein is concerned. Accordingly, this Criminal Original Petition is allowed. The Court below is directed to proceed further with the case against the Accused Nos. 2 and 3 and complete the proceedings within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Judicial Magistrate,
Mudukulathur.
2. The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

GNS

TE/RSK/SAR-2 : 26/11/2018 : 4P/4C

Crl.O.P. (MD) No.9791 of 2016
04.10.2018