



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P(MD) No.17950 of 2018

and

CrI.M.P.(MD) Nos.7967 and 7968 of 2018

P.Sunilkumar

... Petitioner/Accused No.1

vs.

1.State represented by
The Inspector of Police,
District Crime Branch,
Kanyakumari District. ...1st Respondent/Complainant

2.The Passport Officer,
Government of India,
Ministry of External Affairs,
Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 2. ...2nd Respondent/Defacto Complainant

Prayer: This Criminal Original filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C No.153 of 2015 on the file of the Judicial Magistrate No. II, Kulithurai, Kanyakumari district and quash the same as against the petitioner herein.

For Petitioner : Mr.P.T.Ramesh Raja
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (CrI.Side)

ORDER

This criminal original petition has been filed to quash the proceedings in C.C No.153 of 2015 on the file of the learned Judicial Magistrate No. II, Kulithurai, Kanyakumari District.

2.The case of the prosecution is that the father of the petitioner namely, Thangaraj and his brother Chelladurai, approached the birth and death of registration office for getting the birth certificate to the petitioner. A2 was the person, who was in charge of the birth and death registration office and he received a sum of RS.500/- from the father of the petitioner and had given a birth certificate to the father of the petitioner.



3. Admittedly, the petitioner was not involved in the process of getting the birth certificate and in fact, he was not even present at the time, when the father of the petitioner applied for the birth certificate of the petitioner.

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4. Thereafter, the petitioner had applied for the passport before the second respondent by enclosing the birth certificate and other documents. When the passport officer scrutinized the documents and sent for testing the veracity of the birth certificate produced by the petitioner, the same was found to be a fake certificate.

5. Therefore, based on the complaint given by the second respondent, an FIR was registered by the respondent police in Cr.No.75 of 2010 for the offence under Sections 465, 468, 471 and 420 IPC r/w 12(1) (b) of Indian Passport Act. The investigation has been completed and a final report has been filed by the respondent police before the learned Judicial Magistrate, No.II, Kulithurai and the same has been taken on file in C.C.No.153 of 2015. In the final report, the petitioner and the person, who is said to have given the fake birth certificate namely, Durairaj, have been shown as accused.

6. From the allegations made in the final report and the statement given by the witnesses, there is absolutely no material to show that this petitioner was involved in the commission of the offence. The father of the petitioner has been shown as witness and the statement has been taken from him by the respondent police. In the said statement, the father of the petitioner categorically stated that he approached the said Durairaj and paid him a sum of Rs.500/- for the purpose of getting birth certificate and thereafter, Durairaj had given a birth certificate. Believing it to be true, the same was given to the petitioner, who submitted it along with the passport application.

7. In the considered view of this Court, the petitioner has been unnecessarily added as an accused in this case. Therefore, this Court in order to meet the ends of justice has to necessarily quash the proceedings in C.C.No.153 of 2015 pending before the Court below insofar as the petitioner is concerned.

8. In the result, C.C No.153 of 2015 on the file of the learned Judicial Magistrate No. II, Kulithurai, Kanyakumari District, is hereby quashed. Accordingly, this criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



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To

1.The Inspector of Police,
District Crime Branch,
Kanyakumari District.

2.The Passport Officer,
Government of India,
Ministry of External Affairs,
Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 2.

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

4.The Judicial Magistrate No. II,
Kulithurai,
Kanyakumari District.

- 1 CC TO Mr.P.T.RAMESH RAJA , ADVOCATE IN SR No.89482.
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- MM
- DS SKN SAR3 22 11 2018 3P 6C

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