

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No. 5683 of 2012

Jayanthi

...Petitioner

Vs.

1.State

Rep.by the Inspector of Police,
Central Crime Branch, Salem City.

2.The Secretary,

Balakrishnavilas Aided Primary School,
No.1, Dharmalingam Street,
Linemady, Salem - 636 006.

...Respondent

Petition filed under Section 482 of Cr.P.C., filed to call for the entire records in Crime No.17 of 2011, pending on the file of the Inspector of Police, Central Crime Branch, Salem City, Salem District and quash the same.

For Petitioner : Mr.S.N.Ravichandran

For Respondent : Mr.C.Iyyapparaj, APP for R-1

M/s.R.Nalliyappan for R-2

O R D E R

The case of the petitioner is that she belongs to Tholuva Naicker community which is classified as MBC as per the G.O.M.S.No. 242 dated 28.03.1989. The petitioner was selected for the post of secondary grade teacher on 21.08.1996 under the MBC quota on the basis of the roster for MBC and appointed in the third respondent primary school in the same year. Thereafter, the management came to know that the petitioner was identified as belonging to Backward Class even in the year 1992 and suppressing the said fact, on the basis of a bogus certificate, the petitioner had secured employment under the MBC Quota and, therefore, a police complaint was lodged with the law enforcing agency. Pursuant to the same, case in Crime No. 17/2011 was registered on 16.05.2011 and a complaint was also lodged with the District Collector for cancellation of the community certificate. Pursuant to the registration of the FIR, the present petition has been filed against the same.

2. Learned counsel appearing for the petitioner submits that pursuant to G.O.Ms. No.242, the petitioner had applied and

obtained the community certificate even in the year 1989 and that she had registered with the employment exchange. Thereafter, on the basis of the said registration, she was appointed as Secondary Grade Teacher and has been discharging her duties as teacher till date. It is the submission on behalf of the petitioner that she has not suppressed her community nor used any bogus community certificate to obtain the said employment. It is the further submission of the learned counsel for the petitioner that the verification of the community certificate of the petitioner ought to have been done by the District Level Scrutiny Committee headed by the District Collector, but without adhering to the said procedure mandated by the order of the Division Bench of this Court, the Revenue Divisional Officer had cancelled the said community certificate. Against the said cancellation, the petitioner filed W.P.No.29228/2012 and this Court, by order dated 01.07.2013 set aside the said cancellation order and remanded the matter back to the District Level Scrutiny Committee. In such a backdrop, the action of the 1st respondent registering the first information report on the basis of the complaint of the 2nd respondent is per se impermissible and unsustainable. Previously, similar complaint was lodged expressing the very same grievance for which a case was registered and against the said registration of the case, the petitioner moved this Court by filing Crl.O.P.No. 40416/2003 and this Court, vide order dated, 02.07.2007, quashed the complaint in C.C.No. 153/2003. However, for reasons best known, the present complaint has been registered and allowing the said petitioner is unsustainable and, accordingly, prayed for quashment of the case.

3. This Court heard the learned Addl. Public Prosecutor appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

4. The facts, as narrated in the petition and towards which vociferous submissions have been put forth by the petitioner are not disputed by the respondents. However, it is the stand of the respondents that the petitioner, suppressing his original community has placed bogus community certificate and obtained the employment and, therefore, the present complaint has been lodged. Till the validity of the community certificate is decided, quashing the complaint would grossly affect the case against the petitioner to the detriment of the respondents and, therefore, prayed for dismissal of the present petition.

5. Though such a contention has been advanced by the respondents, it cannot be accepted for two reasons. First, the petitioner relies on the community certificate issued to her in the year 1989, which was initially cancelled by the Revenue

Divisional Officer only to be set aside by this Court by remanding the matter to the District Level Scrutiny Committee. The said cancellation was set aside on the ground that the power to cancel the community certificate in respect of Most Backward Class is only vested with the District Level Scrutiny Committee and, therefore, the matter was remanded to the said Committee to decide on the validity of the community certificate produced by the petitioner. It is not in dispute that as on date, the community certificate issued to the petitioner in the year 1989 has not been cancelled in a manner known to law by the District Level Scrutiny Committee. Therefore, for all intent and purposes, the said community certificate issued to the petitioner in the year 1989 is valid in the eye of law unless it stands cancelled in accordance with law. In such a backdrop, registration of FIR by the 1st respondent on the complaint of the 2nd respondent is wholly unsustainable. Further, it is also to be pointed out that the earlier round of complaint lodged against the petitioner in C.C.No. 153/2003 already stands quashed by this Court in Crl.O.P.No. 40416/03 and, therefore, the 2nd round of complaint for the same set of grievance is not permissible, more so, as already noted above, the community certificate issued to the petitioner way back in the year 1989 still has not been cancelled in a manner known to law. In such view of the matter, this Court is of the considered view that the present complaint on the file of the 1st respondent, which has been registered as Crime No. 17/2011 cannot be sustained and deserves to be quashed.

6. For the reasons aforesaid, this criminal original petition is allowed by quashing Crime No.17/2011 on the file of the 1st respondent.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kkn/GLN

To

1.The Inspector of Police,
Central Crime Branch, Salem City.

2.The Public Prosecutor,
Madras High Court.

+1 CC to Mr.S.N.Ravichandran, Advocate sr 106313.

+1 CC to Mr.R. Nalliyappan, Advocate sr 106094.

Crl.O.P.No. 5683 of 2012

VGI (CO)

SP(08/10/2020)