



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.14056 of 2015

and

MP(MD)No.1 of 2015

M.Valliyammal

... Petitioner / Accused

Vs.

Ramaswamy Memorial Middle School,
rep.through its Secretary,
G.Ganesamoorthy

... Respondent / Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in C.C No.565 of 2014 pending before the learned District Munsif cum Judicial Magistrate, Sivagiri, Tirunelveli District and quash the same.

For Petitioner : Mr.R.Aravindan

For Respondent : Mr.J.Sulthan Basha for
M/s.Ajmal Associates

ORDER

The petitioner is facing trial in C.C No.565 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Sivagiri, Tirunelveli District for the offences under Sections 420 and 458 of IPC. It is a private complaint instituted by the respondent herein. The respondent is none other than the employer of the petitioner herein. The stand of the respondent is that the petitioner by misrepresenting her community status gained employment in their school. According to the respondent/complainant, the petitioner belongs to Hindu Vellala which is a forward community. The respondent would allege that the petitioner falsely stated that she belongs to Veerakudi Vellala which is a Backward Class Community and thereby obtained employment. Thus, the action of the petitioner constitutes cheating and forgery. That in substance is the case of the respondent/complainant. Cognizance of the offences was taken and the case was taken on file in C.C No.565 of 2014. To quash the same, this Criminal Original Petition has been filed.



2.Heard the learned counsel on either side.

3.The petitioner's counsel would submit that the petitioner was a student in Ramaswamy Memorial Middle School, Vasudevanallur which is the complainant herein. The petitioner produced a copy of the Record Sheet of the year 1973 which mentions that the petitioner belongs to Veera Kudi Vellala community. The petitioner has also enclosed her school records issued by none other than the respondent/complainant which also clearly mention that the petitioner belongs to Veera Kudi Vellala community. But then, as contended by the respondent's counsel no certificate from any revenue authority has been enclosed.

4.The petitioner had joined the respondent school as a staff in the year 1988. The complaint came to be filed only in the year 2014. Thus, after a gap of about 26 years, the question has been raised by the school regarding the community status of the petitioner. The petitioner's counsel would claim that there arose a vacancy in the post of Headmistress and that the management wanted the petitioner to forego her claim regarding the said post as the correspondence daughter wanted to join the said post. Since the petitioner refused to submit to the said request, the instant complaint has been made against the petitioner.

5.I am satisfied that the impugned complaint is vitiated by malice and malafides. If the employer was genuinely concerned with the community status of the petitioner, the same query would have been raised either at the time of giving employment or even shortly thereafter. A query or doubt or suspicion after a gap of a quarter century cannot be said to be bonafide. It is again not in dispute that the school records issued by the respondent indicate that the petitioner belongs to Veera Kudi Vellala community. In this view of the matter, continuation of the impugned prosecution would only amount to an abuse of legal process. The impugned prosecution stands quashed.

6.This criminal original petition stands allowed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Skm



To

The District Munsif cum Judicial Magistrate,
Sivagiri, Tirunelveli District.

+1 CC to M/s.AJMAL ASSOCIATES, (SR-99715[F] dated 20/11/2019)

+1 CC to M/s.R. ARAVINDAN, Advocate (SR-100007[F] dated
21/11/2019)

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JMN(17.12.2019) 3P : 4C