

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.09.2020

DELIVERED ON : 13.10.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.9095 of 2018 & Crl.M.P. No.4682 of 2018

G. Sundaram

Petitioner

vs.

State represented by its
Deputy Superintendent of Police
Social Justice and Human Rights Unit
Office of the Vigilance Cell, Erode

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to call for the records of the enquiry summons dated
13.03.2018 pending on the file of the respondent.

For petitioner

Mr. R. Rajkumar

for Mr. N. Naganathan

For respondent

Mrs. P. Kritika Kamal

Govt. Advocate (Crl. Side)

ORDER

This criminal original petition has been preferred seeking
to call for the records of the enquiry summons dated 13.03.2018
pending on the file of the respondent.

2 It is the case of the petitioner that he belongs to
Konda Reddy community which is a Scheduled Tribe and that he was
issued with a community certificate to that effect by the Deputy
Tahsildar, Dharmapuri on 07.07.1980; he joined Indian Bank and
also obtained a community certificate that he belongs to the
said community from the District Munsif, Gobichettipalayam on
11.09.1981.

3 While that being so, the Deputy Superintendent of
Police, Social Justice and Human Rights, Erode District, issued
a summons dated 13.03.2018 calling upon the petitioner to appear
before him on 26.03.2018 with the necessary documents in support
of his claim that he belongs to Konda Reddy community which is a
Scheduled Tribe. Challenging the said summons, the petitioner
has filed the present criminal original petition and has
obtained an order of interim stay on 23.03.2018.

4 Heard Mr. R. Rajkumar, learned counsel representing Mr.N.Naganathan, learned counsel on record for the petitioner and Mrs. P. Kritika Kamal, learned Govt. Adv. (Criminal Side) appearing for the respondent/State.

5 The learned counsel for the petitioner placed reliance on the judgments of the Supreme Court in Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and others¹ and contended that only a senior Deputy Superintendent of Police can conduct verification and not the Deputy Superintendent of Police who has issued the impugned summons. He further submitted that the petitioner had obtained the community certificate from the Revenue authorities and subsequently, he had also obtained a certificate in the prescribed form from the District Munsif, Gobichettipalayam and there is no justification for the respondent to issue the impugned summons. In support of his contentions, the learned counsel for the petitioner placed strong reliance on G.O.Ms.No.106 of 2012, Adi Dravidar and Tribal Welfare (CV I) Department dated 15.10.2012 and the judgment of the Supreme Court in R. Kandasamy vs. Chief Engineer².

6 Per contra, the learned Government Advocate (Crl. Side) refuted the contentions put forth by the learned counsel for the petitioner by placing reliance on the judgment of a Division Bench of this Court in S.Sundararaju vs. Addl. Dir. General of Police, Social Justice and Human Rights Unit, Chennai - 4³.

7 This Court gave its anxious consideration to the rival submissions.

8 One cannot dispute that fake community certificates are rampant and when the authorities suspect the genuineness of a community certificate, their power to enquire into it cannot be stifled. If the petitioner is a genuine Konda Reddy (Scheduled Tribe), he need not have to worry at all and he can very well appear before the Deputy Superintendent of Police and place his cards on the table. Further, there are different methods of obtaining fake community certificates. One method is making the authorities believe that a person belongs to an "X" community and getting a certificate from them. Another method is simply forging a community certificate. This Court does not know under which category does the case of the petitioner fall and that can be unearthed only during the enquiry.

9 Be that as it may, in view of the judgment of the Division Bench of this Court in S. Sundararaju (supra) relied on

1 (1994) 6 SCC 241

2 (1997) 7 SCC 505

3 W.P. (MD) Nos.9686 of 2018, etc. batch decided on 08.03.2019

by the learned Government Advocate (Crl. Side), this Court is of the view that this is not a fit case in which the impugned summons requires to be quashed.

In the result, this criminal original petition is dismissed. The petitioner is directed to appear before the respondent herein and participate in the enquiry. If the petitioner avoids his appearance, the police can register an FIR against him and take action in accordance with law. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

1 The Deputy Superintendent of Police
Social Justice and Human Rights Unit
Office of the Vigilance Cell
Erode

2 The Public Prosecutor
High Court
Madras - 600 104

+lcc to Mr.V.Naganathan, Advocate, sr no.34133

SSD(CO)
RMP(11/11/2020)

Crl.O.P. No.9095 of 2018

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