

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.12.2020

PRONOUNCED ON : 18.12.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.18938 of 2020
and CRL.M.P.No.7500 of 2020

G.Suresh Kumar ..Petitioner/Sole Accused

Vs.

State rep. by its
The Inspector of Police
Vigilance and Anti-Corruption Police Station
Pondicherry(In Crime No.2/2017) ..Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.2 of 2017 on the file of the respondent police and quash the same as illegal in respect of the petitioner herein.

For Petitioner : Mr.S.Karuppiah

For Respondent : Mr.D.Bharatha Chakravarthy
Public Prosecutor (Puducherry)

O R D E R

On a complaint lodged by the Principal, Pondicherry Engineering College, the Inspector of Police, Vigilance and Anti-Corruption, Puducherry registered a case in Crime No.2 of 2017 on 21.12.2017 for the offences under Sections 166, 182, 420, 468 and 471 IPC read with Section 13(2) of the Prevention of Corruption Act, 1988 against the petitioner, for quashing which, this petition has been filed under Section 482 Cr.P.C.

2. Heard Mr.S.Karuppiah, learned counsel for the petitioner and Mr.D.Bharatha Chakravarthy, learned Public Prosecutor (Puducherry) appearing for the State.

3. The sum and substance of the allegations in the complaint which formed the basis for the registration of the F.I.R. is as under :

The petitioner belongs to Parayar [Scheduled Caste (SC) community]. The Pondicherry Engineering College (for brevity

"the College") advertised for filling up of five posts of lecturers of which, four were under the unreserved category and one was under 'Other Backward Class' (OBC) category. The petitioner knowing full well that he belongs to SC community, obtained a caste certificate No.9651/T00/F/07 dated 02.07.2007 from the Tahsildar, Puducherry showing as if he belonged to OBC and joined the College as Lecturer on 03.07.2007 under the OBC category. He worked for a period of 51 days from 03.07.2007 to 22.08.2007 and drew salary and allowances to a tune of Rs.31,582/-. However, he resigned on 23.07.2007 and left the college. The Vigilance Department somehow got wind of this and started sniffing around. They conducted an enquiry and submitted a report to the Superintendent of Police, based on which, a communication was sent to the College along with the vigilance enquiry report and study certificates of the petitioner. Based on the materials so submitted, the Principal of the College gave a complaint dated 18.12.2017, based on which, the impugned F.I.R. has been registered as stated above.

4. Mr.S.Karuppiah, learned counsel for the petitioner submitted that, for an incident that is said to have taken place in the year 2007, the F.I.R. has been registered only in 2017 nearly a decade later. He contended that, the Superintendent of Police ought to have registered an F.I.R. himself, instead of sending the enquiry report to the College and thereafter, registering a case based on the complaint of the Principal of the College.

5. This Court is unable to find force in the aforesaid submissions for the following reasons :

A reading of the F.I.R. shows that, the offence itself came to light only after the Vigilance Department started making enquiries. Until then, the police was not aware of the offence at all. Unlike blue-collar offences, white-collar offences will not come to light that easily. Therefore, in the present facts and circumstances of the case, it cannot be stated that there was delay in registration of the case by the police. It is true that the Vigilance Department could have registered a suo motu F.I.R. in this case. However, they thought it fit to send the enquiry report to the College, so that the College authorities can verify their records and thereafter, lodge a complaint. This Court does not find any procedural irregularity in this methodology as contended by Mr.S.Karuppiah. Mr.S.Karuppiah contended that, normally, people belonging to other caste would obtain bogus SC caste certificates to avail benefits and hence, the story of the prosecution that, the petitioner being a member of an SC community had obtained an OBC certificate, defies logic. In this case, out of five vacancies, four fell in the category of open competition and the balance one was reserved for OBC candidates. There was no reservation

for SC/ST candidates in that selection and that had, perhaps, prompted the petitioner to obtain an OBC certificate to get State employment.

6. Mr.S.Karuppiyah contended that the petitioner obtained information under the Right to Information Act, 2005 from the College on 18.11.2019 which shows that, he had submitted his community certificate at the time of applying for the post. This shows that he had submitted only his SC certificate and not the OBC certificate. It is trite that reliance cannot be placed on the information obtained under the Right to Information Act, 2005, to exercise powers under Section 482 Cr.P.C., for quashing an F.I.R.

7. Placing strong reliance on the judgment of this Court in A.Dhanavathi Ammal Vs. State (Crl.O.P.No.2354 of 2003 decided on 08.04.2003), Mr.S.Karuppiyah contended that, when the provisions of the Prevention of Corruption Act, 1988 would not apply to the case at hand, the very investigation by the Vigilance Department is illegal. It is his contention that, at the time when the petitioner joined the service, he was not a public servant and therefore, the police ought not to have invoked the provisions of the Prevention of Corruption Act, 1988 in the F.I.R. It is his further contention that Sections 166, 182, 420, 468 and 471 IPC would not apply, as there is no allegation that it was the petitioner, who had forged the caste certificate.

8. An F.I.R. is not an encyclopedia of the prosecution case. The police have invoked certain penal provisions in the F.I.R. and after completing the investigation, they may even file a closure report or inter alia file a charge sheet against other public servants also, who had helped the petitioner to obtain the bogus certificate. As of now, the complaint does disclose the commission of cognizable offences, inasmuch as the petitioner being a non-OBC, joined public service with an OBC certificate, worked for 51 days, drew salary and allowances. In the light of these facts, the F.I.R. cannot be quashed at the threshold.

In the result, this Criminal Original Petition is dismissed. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police
Vigilance and Anti-Corruption Police Station
Pondicherry

2.The Public Prosecutor (Puducherry)
High Court of Madras

Pre-Delivery Order in
CRL.O.P.No.18938 of 2020

SRA (CO)
RV (05/01/2021)



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