



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.09.2020

Delivered on : 07.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

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CRL OP(MD)No.8756 of 2020

R.Rishikkanth

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
CBCID, Theni,
Theni District.

... Respondent

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondent Police to return the original educational certificates of the petitioner, including his 10th Standard, 12th Standard Mark Statements, Transfer Certificate, Community Certificate and other merit certificates, within a reasonable time to be fixed by this Court.

For Petitioner

: Mr.N.Dilip Kumar

For Respondent

: Mr.S.Chandrasekar

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking direction, to direct the respondent police to return the original Educational Certificates of the petitioner, including his 10th and 12th Standard Mark Statements, Transfer Certificate, Community Certificate and other merit certificates, within a stipulated time as fixed by this Court.

2.The petitioner is an accused in Crime No.1 of 2019, on the file of the Inspector of Police, C.B.C.I.D., Theni. The said case has been registered against the petitioner for the offence punishable under Sections 120-B, 419 and 420 I.P.C. for an alleged act of impersonation to write and clear the National Eligibility-cum-Entrance Test [NEET] held on 05.05.2019, by engaging a Proxy. Now, the said case is in the stage of investigation. Only in the said circumstances, the petitioner has approached this Court with the prayer stated supra.

3.The learned counsel appearing for the petitioner would submit that though the petitioner was arrayed as accused in the above referred case, until the case is ended in conviction, it cannot be said that the petitioner has committed the offence as alleged by the respondent Police. However, the petitioner filed this Petition for



a short relief to return the documents, which were seized by the second respondent Police at the time of investigation.

4. In this regard, the learned Additional Public Prosecutor appearing for the respondent Police fairly conceded that while at the time of examining the Dean, Government Medical College, Theni, he has produced various certificates in connection with the petitioner's educational qualification and the same has been sent to the concerned Judicial Magistrate. Further, the Dean, Government Medical College, Theni, is not in a position to give the details of those documents, which had been produced before the Trial Court. In the said circumstances, in order to know about the details of documents, which were available along with F.I.R., this Court called for remarks from the learned Judicial Magistrate, Theni, directing him to mention the details of documents, which have been submitted by the investigation authorities.

5. Complying with the said order passed by this Court, the learned Judicial Magistrate, Theni, has also submitted his remarks, in which, he has clearly mentioned that the 10th and 12th Standard Mark Sheets related to the petitioner are available with the Court records. Accordingly, this Court has come to the conclusion that the documents now required to be returned to the petitioner, are in the custody of the Judicial Magistrate, Theni.

6. As far as the prayer sought for by the petitioner is concerned, the allegation levelled against the petitioner is that, during the time of occurrence, he made impersonation to write and clear the NEET Examination, by engaging a Proxy. In otherwise, in respect of the Mark Sheets pertaining to 10th Standard and 12th Standard, there was no allegation levelled against him. Therefore, keeping the documents in the custody of the Court, is no way helpful to complete the investigation/trial. Accordingly, this Court directs the learned Judicial Magistrate, Theni, to return 10th and 12th Mark Statements of the petitioner after substituting a Photocopy of the same in the case records. Further, at the time of returning the documents, the learned Judicial Magistrate, Theni, is directed to get an affidavit of undertaking from the petitioner that he shall produce the said Certificates whenever necessary.

7. In respect of return of the Transfer Certificate now prayed by the petitioner, on a close scrutiny of the entire circumstances narrated by the prosecution, it seems that only after got admission, the impersonation committed by the petitioner came to light and thereafter, a case has been registered. Therefore, the competent authority to issue the Transfer Certificate is, the Institution, in which, the petitioner joined as Student. In otherwise, the Transfer Certificate issued at the time of completing the 12th Standard, not at all having any value, since the petitioner has already joined M.B.B.S. Course. Therefore, the prayer sought for by the petitioner



8.This Criminal Original Petition is ordered accordingly.

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// True Copy //

Sd/-

Assistant Registrar (CO)

/ /2020

Sub Assistant Registrar(CS)

SMN2

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
CBCID, Theni,
Theni District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

Copy to:-

- 1.The Judicial Magistrate,
Theni.
- 2.The Chief Judicial Magistrate, Theni.

+1 CC to Mr.N. DILIPKUMAR, Advocate (SR-16149[F] dated 07/09/2020)

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KM (09.09.2020) 3P 6C