



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2020

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THE HONOURABLE MR. JUSTICE **A.D. JAGADISH CHANDIRA**

W.P. (MD) No. 27179 of 2019

and

W.M.P. (MD) No. 23489 of 2019

D.M. Gurusamy

... Petitioner

Vs.

1. The Superintendent of Police,
Thoothukudi District, Thoothukudi.

2. The Deputy Superintendent of Police,
Kovilpatti, Thoothukudi District.

3. The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

4. K. Balamurugan

5. Iyappan

Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

... Respondents

[R5 impleaded vide order dated 20.01.2020

made in W.M.P. (MD) No. 180 of 2020 in WP (MD). 27179 of 2019]

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari of Mandamus, to call for the records pertaining to the impugned Non Traceable Certificate, dated 15.10.2019, issued by the third respondent and quash the same and consequently direct the 1 and 2 respondents to take necessary action, on the basis of the petitioner's representation, dated 27.11.2019.

For Petitioner : Mr. R. Ponkarthikeyan

For R1 to R3 : Mrs. S. Bharathi
Government Advocate (Crl. Side)



ORDER

This Writ Petition has been filed seeking to quash the impugned Non Traceable Certificate, dated 15.10.2019, issued by the third respondent and direct the respondents 1 and 2 to take necessary action, on the basis of his representation, dated 27.11.2019.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the respondents.

3. It is the case of the petitioner that he is the Chairman of Muthukaruppan Memorial Educational Trust, having its office at Door No.108, M.K.M.Nagar, Silankulam, Ottapidaram Taluk, Thoothukudi District. The trust is a public charitable trust and the same was formed by virtue of trust deed executed on 27.04.1995. There is a dispute between the petitioner and the fourth respondent with regard to embezzlement of trust funds. In order to verify the accounts, the petitioner and other members on 27.08.2018, searched for the account book and minutes book in the trust office. However, they did not find the books as well as the deeds and documents of the trust. Therefore, the Chairman of the Trust sent a notice to all the trustees and office bearers including the fourth respondent herein intimating that the trust documents, deeds, minutes book are found missing. The petitioner also informed the other office bearers to attend the General Body Meeting on 05.09.2019 to discuss about the missing of the above documents and for further action. Except the fourth respondent, all other office bearers and trustees have duly received the above notice. Anticipating the action, the fourth respondent deliberately refused to receive the notice and having got knowledge of the contents of the notice through some other office bearer. While the petitioner has proposed to take action against the fourth respondent, the fourth respondent had given an online complaint before the third respondent on 03.10.2019 alleging that he had lost all the documents like trust deed, minutes book on 01.10.2019 in a Xerox Shop. Based on the online complaint, CSR No.537 of 2019 was issued by the third respondent on 14.10.2019. Further, on 15.10.2019, the third respondent issued a Non Traceable Certificate to the fourth respondent, for missing of trust deeds, minutes book and related documents. Since the non-traceable certificate had been issued in a routine and hurried manner without conducting enquiry in a proper manner, the present writ petition has been filed to quash the impugned Non Traceable Certificate.



4.The third respondent has filed a counter affidavit, wherein, it had been stated that the fourth respondent sent an online complaint on 04.10.2019, regarding only missing of the original trust deed registered at the Joint Registrar's office, North Chennai as Reg.No.521/1995, 1715/2005 on Kovilpatti Pasuvnthanai Road requesting to trace it out. It is pertinent to point out that in the online complaint, the fourth respondent has mentioned that only the trust deed was found missing and no mention was made about other documents, as has been alleged by the petitioner. After receiving the online complaint 04.10.2019, the respondent police had started investigation, which, lasted for ten days and being unable to trace the trust deed on 14.10.2019, CSR No.537 of 2019 was issued for the purpose of reference and on the next day i.e., on 15.10.2019 non-traceable certificate was issued. It had been stated that a meticulous enquiry had been conducted and being unable to find the deed the CSR had been closed.

5.The learned Government Advocate (Crl. side) appearing for the respondents 1 to 3 would submit that only after the receipt of online complaint on 04.10.2019, a meticulous enquiry was conducted. However, in order to give a reference number the complaint was registered in CSR No.537 of 019 and unable to search the trust documents, non-traceable certificate was given on the next day only with regard to the trust deed. The respondent police have not given non-traceable certificate with regard to the other documents. Further, if the petitioner is aggrieved, he can apply for the copy of the trust deed from the concerned officer.

6.Recording the same, the writ petition stands closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Superintendent of Police,
Thoothukudi District, Thoothukudi.



2. The Deputy Superintendent of Police,
Kovilpatti, Thoothukudi District.

3. The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

+1 CC to M/s. R. PON KARTHIKEYAN, Advocate (SR-7960[F] dated
24/02/2020)

W.P. (MD) No. 27179 of 2019
24.02.2020

ss (CO)
TR(11.03.2020) 4P 5C