

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2021

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THE HONOURABLE MR.JUSTICE T.RAJA

Contempt Petition No.428 of 2019

Dr.S.Diraviam Dinesh

Petitioner

-VS-

Mr.Jeya Sagaya Sathish
Holy Queen Matriculation School
rep.by its Correspondent
Nagelkeni, Chennai 600 044

Respondent

Petition under Section 11 of the Contempt of Courts Act, 1971
praying to punish the respondent for wilful disobedience of the order of this
Court dated 19.07.2018 made in W.P.No.28352 of 2017.

For Petitioner

Dr.S.Diraviam Dinesh

Petitioner-in-Person

For Respondent

Mr.L.Infant Dinesh

ORDER

This contempt petition was filed by Dr.S.Diraviam Dinesh to initiate
contempt proceedings against the respondent-Mr.Jeya Sagaya Sathish, the
Correspondent of Holy Queen Matriculation School, Nagelkeni, Chennai for

having committed wilful disobedience of the order dated 19.7.2018 passed in Writ Petition No.28352 of 2017.

2. Dr.S.Diraviam Dinesh, the petitioner appearing in person pleaded that he is a medical research scientist with international recognition in the field of bacterial infections and cancer research, however, practicing as an Advocate in Chennai. His daughter Ms.Keerthana Dinesh was admitted at St.Raphael's Cathedral School, Palakkad, Kerala (CBSE Affiliation No.930313) in 1st Standard and she was pursuing her studies under his care and supervision. While so, some oblique plans were made without the knowledge of the petitioner by his estranged wife Lakshmy and her parents to take away his daughter from him to a different place after the conclusion of her 2nd Standard in 2012. Knowing this well in advance, the petitioner sent a request letter to the school authorities not to issue any Transfer Certificate to his wife without his consent. On the other hand, his wife, creating many hurdles, prevented the petitioner from meeting his daughter even in the school premises when she was pursuing 3rd Standard. Thereafter, to his surprise, his daughter was taken away from the said school without even obtaining Transfer Certificate from the said school. After his strenuous efforts to find out the whereabouts of his daughter including lodging of a child missing complaint with the Palakkad North Police Station,

he came to know that she was admitted in Silicon City Public School, Konanakunte, Bengaluru (CBSE Affiliation No.830133). The petitioner obtained admission information from Silicon City Public School, Konanakunte, Karnataka through RTI Act, that showed that the Transfer Certificate submitted for his daughter's admission in the school was issued by an unrelated school, namely, Holy Queen Matriculation School, Nagelkeni, Chennai, the respondent herein.

3. It is also the claim of the petitioner that his estranged wife had used a fabricated Transfer Certificate to seek admission to his daughter by resorting to unlawful means. In view of such unlawful means, his daughter lost one year of her schooling. As per the dates mentioned in the fabricated Transfer Certificate, his daughter appeared to have attended two schools in two States, namely, Kerala & Tamil Nadu at the same time, which is unrealistic. The petitioner states that he has also noticed misrepresentation of the community of Ms.Keerthana Dinesh in the Transfer Certificate as Scheduled Caste, whereas his daughter belongs to Backward Class community. On verification, it has been found that the Holy Queen Matriculation School, Chennai had issued the above mentioned bogus Transfer Certificate to his daughter after getting illegal gratification from his estranged wife. After raising the issue with the authorities of Silicon City

Public School, Konanakunte, Bengaluru, one Shantharam tried to obtain the Transfer Certificate of his daughter from St.Raphael's Cathedral School, Palakkad, Kerala through the Director of Public Instructions, Kerala, knowing well that the Director of Public Instructions of the State has no authority over the CBSE affiliated schools in such matters.

4. In view thereof, the petitioner filed Writ Petition No.26673 of 2013 before the High Court of Kerala, Ernakulam Bench and obtained an order of stay against the order of the Director of Public Instructions, Kerala and the said writ petition was disposed of accepting the undertaking of St.Raphael's Cathedral School, Palakkad that the school would not oblige to the order of the Director of Public Instructions, Kerala and that they would maintain status quo and the Transfer Certificate would not be issued without the petitioner's consent. When the petitioner did not receive any explanation as to how a bogus Transfer Certificate was issued to his daughter by the respondent school, he gave a complaint to the Director of Matriculation Schools, Chennai for taking appropriate action against the person concerned vide letter dated 29.8.2015. However, no action was taken in spite of repeated communications. Therefore, the petitioner filed a criminal complaint against the Principal and Correspondent of Holy Queen Matriculation School, Nagelkeni, Chennai and his estranged wife Lakshmy

in C.C.No.257 of 2014 on the file of the learned Judicial Magistrate, Tambaram. Thereafter, all the accused have entered appearance in the said case and the same is pending disposal in CrI.O.P.No.23407 of 2016. After taking various efforts to lodge the complaint with the Director of Vigilance & Anti-Corruption, Chennai for taking appropriate action against the authorities involved in issuing the bogus Transfer Certificate to his daughter and finding no reply to the representation dated 24.10.2017 made to the Director of School Education, Chennai, the petitioner in person pleaded that he filed the Writ Petition No.28352 of 2017 to direct the Director of School Education and other authorities to initiate action against the Holy Queen Matriculation School, Nagelkeni, Chennai for issuing the bogus Transfer Certificate. Pleading further, he stated that this Court vide order dated 19.7.2018, after considering the arguments advanced by both parties, gave a finding that the petitioner's wife has committed an act of fraud by managing to produce a fake Transfer Certificate by influencing the school at Chennai, however, warned the petitioner's wife Lakshmy not to indulge in any such fraud activities which will ultimately affect the future of her children and thereby held that the mother of the child is guilty of obtaining a fake certificate. Therefore, when there was a finding given by this Court in its order dated 19.7.2018 passed in Writ Petition No.28352 of 2017 that the

Correspondent of the respondent School was responsible for issuing the fake certificate for extraneous consideration, they render themselves unbecoming of running the school, for the simple reason that when the schools are established to impart what is good, what is righteous, what is just and fair to the children and that the children should not do any wrong, allowing the respondent school to function would be sending a wrong signal, because the respondent school is meant for issuing fake certificate, which is totally contrary to the purpose and object for which the school has been established to teach justness, fairness and good conscience to the future leaders of the nation. Therefore, suitable action should be initiated, he pleaded.

5. A detailed counter affidavit has been filed by Dr.A.Jeya Sagaya Sathish, the Correspondent of the respondent School. Learned counsel appearing for the respondent school pleaded that Holy Queen Matriculation School is one of the reputed educational institutions maintaining meritorious record, since one of the students secured State Rank in the Higher Secondary exams and another student cleared Indian Administrative Service. This apart, some of the teachers have also achieved good track record for their teaching skills and they have also received various recognition. In addition thereto, the school also had got Best Educator award in the year 2012-13 from the Tamil Nadu Journalist Association and above all, His

Excellency Dr.K.Rosaiash, former Governor of Tamil Nadu has also appreciated the school performance. While so, one Mr.M.Jebaraj, who was working for the past 12 years handling the administrative activities, has given a statement in writing to the management that the lapses occurred in issuing the said Transfer Certificate were not done intentionally. However, taking note of the factor that the said Transfer Certificate was not issued for securing admission to a new school, had suspended Mr.M.Jebaraj from duty on 30.8.2018. The delinquent had also requested the school management to consider revocation of his suspension stating that he is aged about 61 years and his wife died a decade ago and that he is survived by three daughters and he is also the caretaker of his unmarried younger daughter aged about 32 years, whose marriage proposal is under process. Meeting the point raised by the petitioner in person for initiation of contempt action against the school, it is contended that the petitioner's contempt petition is not maintainable.

6. Having heard learned counsel appearing for the parties, this Court also finds that in the order dated 19.7.2018 passed in Writ Petition No.28352 of 2017, a finding of fraud committed by the respondent school while issuing the fake Transfer Certificate in the name of the petitioner's daughter Ms.Keerthana has been recorded. The said certificate also reveals

the community of the ward as Scheduled Caste instead of Backward Class community, for which a criminal complaint was already filed against the said school and the petitioner's wife for the offence under Section 420 IPC. Since the alleged offence under Section 420 IPC is pending for consideration before the criminal Court, this Court has safely left the matter at this stage. Secondly, the management of Holy Queen Matriculation School, Nagelkeni, Chennai has been directed to place the official concerned under suspension and also to proceed with the disciplinary proceedings against the official who had issued the fake Transfer Certificate to the petitioner's daughter Ms.Keerthana with a further direction that if the enquiry reveals the guilt of the delinquent concerned, suitable orders shall be passed. As against the said order, Writ Appeal No.2323 of 2018 was filed, which was dismissed by order dated 17.12.2018. Aggrieved thereby, the petitioner unsuccessfully filed Special Leave Petition (Civil) No.14094 of 2019 that came to be dismissed on 13.8.2019, confirming the order passed by the writ Court. In the meanwhile, the petitioner has also filed another Writ Petition No.1675 of 2018 for issuance of a mandamus directing the respondents 1 & 2/CBSE authorities to consider his representation dated 26.12.2017 to initiate appropriate action as against Silicon City Public School, Bengaluru for malpractice in admission and subsequent fraudulent acts. But the said writ

petition was dismissed as withdrawn, since the relief sought for has already been considered by the authorities. The respondent school authority also states that the concerned person was placed under suspension and he has not been taken back in service. Moreover, a criminal case has been filed against the school and the petitioner's wife for the offence under Section 420 of IPC, which is also pending. As rightly observed by this Court, whether the offence under Section 420 of IPC is made out or not, is for the Criminal Court to decide. When the Criminal Court is seized of the matter, this Court is not inclined to pre-judge the issue, hence, leaving the issue to be decided by the Criminal Court, this contempt petition stands disposed of with the above observation.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

SS

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Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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