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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2022

CORAM

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No. 460 of 2022
&
C.M.P. No. 3326 of 2022

A. Ravichandran

Vs.

.. Appellant

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

2. The Deputy Superintendent of Police,
District Crime Branch, Dharmapuri.

3. The Tahsildar,
Pappairedipatti Taluk Office,
Pappairedipatti, Dharmapuri.

4. Mr.V. Napoleon

.. Respondents

Prayer: Writ Appeal as against the order dated 04.02.2022 passed in W.P. No. 1881 of 2022.

Prayer in WP No.1881 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records pertaining to the charge memo issued by the 1st respondent in file Ta.Pa.No.H-2/75/2021 dated 13.12.2021 quash the same consequently direct the respondents to drop the further proceedings against the petitioner in file Ta.Pa.No.H-2/75/2021 dated 13.12.2021.

For Appellant : Mr.C. Umashankar

For Respondents : Mr.Abhishek Murthy,
Govt. Advocate for R1 to R3
Mr. Balan Haridas for R4



J U D G M E N T

S. VAIDYANATHAN, J. AND MOHAMMED SHAFFIQ, J.

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The present appeal has been preferred as against the order dated 04.02.2022 passed by the learned Single Judge refusing to interfere with the charge memo issued to the appellant/writ petitioner dated 13.12.2021.

2. The case of the appellant, who is a Special Sub Inspector of Police, before the writ Court is that, at the instigation of one Nepoleon, the 4th respondent herein, who has personal enmity with the appellant/writ petitioner, due to family issues, charge memo had been issued and that the charges levelled against him are baseless and liable to be interfered with. However, the learned Single Judge, finding that the challenge made to the charge memo is completely bereft of any merit and substance, dismissed the writ petition, which has given rise to the present writ appeal.

3. According to the appellant, alleging that he had fabricated and produced fake legal heirship certificate, for the purpose of registration of a Settlement Deed made in favour of his wife by his father-in-law, who also happens to be his paternal uncle, a complaint was lodged by the 4th respondent herein, who claims to be the son of the father-in-law of the appellant through his second wife, based on which an FIR was registered. Thereafter, due to persistent complaints made by the 4th respondent to the 1st respondent herein/Superintendent of Police, Dharmapuri, directions were issued to the 3rd respondent to give a report as regards the authenticity of the legal heirship certificate enclosed by the appellant at the time of registration of the settlement deed. Based on the report furnished by the 3rd respondent, a preliminary enquiry was conducted by the 2nd respondent herein and based on the enquiry conducted, charge memo was issued to the appellant. According to the appellant, after coming to know about the erroneous legal heirship certificate issued by the office of the 3rd respondent, he had immediately taken steps and corrected legal heirship certificate had also been issued by the office of the 3rd respondent, after taking back the erroneous legal heirship certificate. However, the defective legal heirship certificate, which he had handed over to his father-in-law, had been forwarded for preparing the Settlement Deed and due to unforeseen circumstances, the corrected legal heirship certificate could not be handed over at the time of registration of the settlement deed. That being so, the 4th respondent, apart from filing a suit in O.S. No. 283 of 2018 on the file of Sub Court, Harur seeking partition and separate possession, had made



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a complaint before the Superintendent of Police, Dharmapuri, as against the appellant, projecting as if the appellant had created fake documents to usurp the property, over which he has a right, which had resulted in issuance of a charge memo. According to the appellant, at the earliest point of time, when the mistake was noticed in the legal heirship certificate issued by the office of the 3rd respondent, he had taken steps to obtain the corrected legal heirship certificate. Moreover, the parties, who would be aggrieved by the fabrication of legal heirship certificate would be his siblings and the 4th respondent has no case to make any complaint as there is no relationship between the appellant/writ petitioner and Napoleon and that he is not his brother-in-law namely, his wife's brother. In fact, according to the appellant, his brothers and sisters have filed an affidavit in Crl.O.P. No. 12893 of 2020 filed by the 4th respondent to cancel the anticipatory bail granted to the appellant/writ petitioner, that the erroneous legal heirship certificate was cancelled and the corrected legal heirship certificate was issued.

4. On the other hand, according to the learned counsel appearing for the 4th respondent, on account of fake certificate produced by the appellant, which had affected his right over the ancestral property, he had lodged a complaint, which resulted in registration of a criminal case. Apart from that, there is a civil dispute pending between the parties in O.S. No. 283 of 2018 on the file of Sub Court, Harur.

5. Learned counsel for the official respondents would submit that it is no doubt true that ultimately, the legal heirship certificate was corrected and produced but the fact that initially, fake certificate was produced is the subject matter of charge memo and that it is premature for the appellant to question the memorandum of charges at this stage.

6. Heard the submissions of all the parties to the writ appeal.

7. This Court cannot conduct any roving enquiry into the allegations made. Based on the complaint made by the 4th respondent to the effect that the appellant had produced a fabricated legal heirship certificate, based on which documents have been created, the Department, after conducting a preliminary enquiry, has issued the charge memo. Therefore, it is for the department to decide about the genuineness of the certificate and proceed further with the departmental enquiry and depending upon the outcome of the departmental proceedings, it is open to the appellant/writ petitioner to challenge the same. As the matter is subjudice and the very fact that the appellant/writ petitioner has obtained anticipatory bail and



complied with the conditions, this Court is not inclined to interfere with the order of the learned Single Judge and the official respondents are expected to conduct an enquiry as early as possible. The enquiry shall be conducted on a day-today basis without adjourning the matter beyond 7 working days at any point of time. The appellant/writ petitioner is expected to co-operate for the enquiry. It is open to the appellant/writ petitioner to adduce evidence, if so advised. Till the issue about the forged certificate attains finality, no terminal benefits shall be given to the writ petitioner.

8. With the above observation, the writ appeal stands dismissed. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Dharmapuri District, Dharmapuri.
2. The Deputy Superintendent of Police,
District Crime Branch, Dharmapuri.
3. The Tahsildar,
Pappairedipatti Taluk Office,
Pappairedipatti, Dharmapuri.

+1cc to M/s.C.Umashankar, Advocate, S.R.No.17118

W.A. No. 460 of 2022

SKM(CO)
SU(22/04/2022)