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Crl.O.P.No.3309 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No. 3309 of 2021

and

Crl.M.P. No. 1886 of 2021

1.Dr.Anisa Basheer Khan

2.Dr.M.Ramachandran

3.N.Veerapan

4.S.Rajkumar

... Petitioners

Vs.

1.State. Represented by
The Station House Officer,
Kalapet Police Station, Puducherry.

2.A.Balasubramanian

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the case in C.C.No.10 of 2020 in the Court of the Judicial Magistrate – II at



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Puducherry, and quash the same.

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For Petitioners : Mr. R.John Sathyan
Senior Counsel
for Mr. P.Divakar

For Respondent 1 : Mr. M.V.Ramachandramoorthy
Additional Public Prosecutor
(Puducherry).

For Respondent 2 : No Appearance

ORDER

The petition is to quash the final report for the alleged offences under Section 120 (b), 201, 381, 420, 468, 471 IPC read with 34 IPC.

2. It is alleged in the final report that the 1st accused was the Vice Chancellor (i/c) of Pondicherry University; that the 2nd accused was working as a Professor of Economics in the said University; that the 3rd accused was working as a Data Entry Operator; that the 4th accused was working as a Private Secretary to the 1st accused; that



they had colluded/conspired and committed a theft of letter pad of the Vice Chancellor and prepared a letter on 27.02.2016, by mentioning the date of the letter as 26.02.2016 stating that one Dr. J.Sampath, who was working as a Registrar of Pondicherry University was relieved from the said post on 26.02.2016, afternoon itself. It is further alleged that the 1st accused was relieved from the post of Vice Chancellor (i/c) on 26.02.2016 and therefore she had created this antedated letter to relieve the said Sampath from the post of Registrar of the Pondicherry University.

3. (a). Mr. R.John Sathyan, learned senior counsel for the petitioners would submit that the impugned final report is a result of dispute between the 1st petitioner and the said Sampath, who was working as Registrar of the Pondicherry University. The learned senior counsel would submit that the allegations even if admitted to be true, would not constitute the offence of forgery or theft as claimed by the prosecution. The Ministry of Human Resource Development



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had issued a letter on 3rd March 2016 to the effect that the 1st petitioner herein shall continue to act as Officiating Vice Chancellor.

3. (b). The learned senior counsel would further submit that the order passed by the 1st petitioner which is said to be forged was challenged by the said Sampath before this Court in W.P.No.8847 of 2016 and the Writ Petition came to be dismissed on 15.03.2016. Further, the 1st petitioner's appointment as Vice Chancellor (i/c) was challenged by one N.K. Jha in W.P.No.27160 of 2015 and this Court by order dated 03.06.2016, held that the appointment of the 1st petitioner as Vice Chancellor (i/c) is valid in law.

3. (c). The learned senior counsel would therefore submit that in view of the letter dated 3rd March 2016 sent by the Ministry of Human Resource Development, Department of Higher Education, directing the 1st petitioner to continue as a Vice Chancellor (i/c), there is neither wrongful loss nor any injury caused to any person and hence the



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alleged offences are not made out.

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4. The learned Additional Public Prosecutor (Puducherry) for the 1st respondent would submit that the allegations are that after the 1st petitioner who was relieved from the office of Vice Chancellor had committed a theft of letter pad with the help of the other petitioners and created a letter to make it appear that the said Sampath who was working as Registrar was relieved from that post on 26.02.2016. The said allegation attracts the offences alleged and hence he prayed for the dismissal of the quash petition.

5. Though notice was served on the 2nd respondent, none has entered appearance for the 2nd respondent.

6. This Court on perusal of the impugned final report finds that



the only allegation against the 1st petitioner is that after she was relieved from the post of Vice Chancellor (i/c) on 26.02.2016, she prepared a false document on 27.02.2016 by taking a letter pad from the office of the Vice Chancellor by antedating the letter making it appear that the said Sampath was relieved from the office as Registrar on 26.02.2016. The letter of the Ministry of Human Resource Development dated 3rd March 2016 makes it very clear that the 1st petitioner was asked to continue as an officiating Vice Chancellor, since no Vice Chancellor was appointed for the Pondicherry University

7. It is further seen that the said Sampath has challenged the office order dated 26.02.2016 of the 1st petitioner before this Court in W.P.No.8847 of 2016 and the Writ Petition was dismissed as withdrawn.

8. This Court finds that even if all the allegations are accepted



to be true, the offences of forgery cannot be said to be made.

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9. Admittedly, there is no wrongful loss or wrongful gain. Therefore, “dishonestly” has not been made out. As regards “Fraudulently”, the observation of the Hon'ble Supreme Court in ***AIR 1963 SC 1572 – Dr. Vimla Vs. Delhi Administration*** is extracted below for better understanding:

“To summarize : the expression “defraud” involves two elements, namely, deceit and injury to the person deceived. Injury is something other than economic loss that is, deprivation of property, whether movable or immovable, or of money, and it will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non economic or non-pecuniary loss. A benefit or advantage to the deceiver will almost always cause loss or detriment to the



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deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied.”

In the instant case as stated earlier there is no injury caused to anyone since deceit and injury must be present to bring an act within the meaning of “*fraudulently*”.

10. In the instant case, there is no harm / loss or no injury has been caused to any person in view of the subsequent order passed by the Ministry of Human Resource. Hence, the act of petitioners would neither fall within the definition of *dishonestly nor fraudulently*, which are the essential ingredients in any property offences. Therefore, the other property offences under Section 381 and 420 of IPC are also not made out.

11. In view of the above, the impugned final report is liable to



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be quashed. Accordingly, the petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

20.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

1.The Judicial Magistrate – II,
Puducherry

2.The Station House Officer,
Kalapet Police Station, Puducherry.



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SUNDER MOHAN. J,

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