



Crl.R.C.No.1455 of 2022

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WEB CO **V.SIVAGNANAM.J.,**

Today, after pronouncing the order, the petitioner appeared in person and represented that all educational certificates of his son are in the custody of the 1st respondent college. Hence, a direction may be issued to the 1st respondent college to return all his original educational certificates including transfer certificate, to enable him for continuing his studies.

2.Considering the request of the petitioner appeared in person, the 1st respondent college is hereby directed to return all the original educational certificates including transfer certificate of the petitioner's son forthwith that may be enabling him for continuing his studies in some other college.

sms

13.02.2023



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Pre-delivery order made in
Crl.R.C.No.1455 of 2022

13.02.2023



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.01.2023

PRONOUNCED ON: 13.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1455 of 2022

Jayaseelan Gopalakrishnan	...	Petitioner
	/vs/	
1.KIT Kalaighnar Karunanithi Institute of Technology		
2.N.Mahandass Gandhi, Principal		
3.S.Raja Mohamad, HOD CSE Dept.		
4.Jeyanthi, Assistant Professor CSE Dept.		
5.Priyanka, Assistant Professor CSE Dept. ...		Respondents

PRAYER : Criminal Revision Case has been filed under Sections 397 r/w 401 of the Code of Criminal Procedure to set aside the order dated 06.09.2022 passed by the Learned Judicial Magistrate Court No.IV, Salem in C.M.P.No.1576 of 2022 and to allow the C.M.P. as requested for.

Petitioner	...	Jayaseelan Gopalakrishnan (party-in-person)
For Respondents	...	Mr.V.C.Prakasam



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ORDER

Challenging the impugned order dated 06.09.2022 passed in C.M.P.No.1576 of 2022 by the Learned Judicial Magistrate No.IV, Salem, the criminal revision case has been filed.

2.The facts of the case is that the petitioner is the complainant. He filed a private complaint in CMP.No.1576 of 2022 on the file of the Judicial Magistrate Court No.IV, Salem. In the complaint, it is alleged that the petitioner's son viz., Srihariharan studied Computer Science Engineering 3rd year at 1st respondent College at Coimbatore. The second respondent is the Principal of that College. The third respondent is the Head of the Department and the fourth and fifth respondents are the Professors of the abovesaid College. During Covid Pandemic period, the classes were conducted via online Mode. After that, on 28.08.2021, the first respondent College created an whatsapp group and directed all the students to get their vaccination and on 29.08.2021, they sent another message to all the students to vaccinate and only after vaccination, they will be permitted to attend the classes on Physical mode. Further, on



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06.09.2021 and 08.09.2021, the fourth and fifth respondents updated some of the students vaccination reports, according to the petitioner, which is a Sensitive Personal Data or Information to create fear among the students. On 28.10.2021 when the petitioner's son went to College, the first respondent institution denied permission to enter into the College for want of vaccination report. Hence, his education was spoiled. Therefore, the complainant filed the private complaint for taking cognizance for the offences punishable under sections 153(A), 308, 350 and 455 IPC besides under Section 72(A) of IT Act. The trial Court, after considering the complaint and arguments advanced by the complainant, dismissed the complaint as there is no prima facie to proceed the case against the accused persons for the offences as above stated, which is under challenge.

3.The petitioner appeared in person and argued the case. The petitioner contended that the trial Court failed to consider the allegations raised in the complaint and the materials produced by the petitioner before the Court and further the trial Court failed to consider the judgment of the Hon'ble Supreme Court ***dated 02.05.2022 in Writ Petition (Civil) No.607***



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of 2021 (Jacob Puliyel Vs. Union of India & Ors.). Further he contended that no individual can be forced to be vaccinated and sharing the Sensitive Personal Data or information is violation of the rules and also violation of the judgment of the Hon'ble Supreme Court *dated 24.08.2017 in Writ Petition (Civil).No.494 of 2012 (Justice K.S.Puttaswamy (Retd.,) and Anr Vs. Union of India and Ors.).* Therefore, he prayed to set aside the order of the trial Court and seeking to give a direction to take the case and proceed against the accused persons.

4.The learned counsel appearing for the respondents contended that the Government issued a G.O.(MS).No.164 Higher Education (A2) Department dated 27.08.2021 and a letter No.14595/A2/2021 dated 03.01.2022, with regard to the guidelines to prevent the spread of infectious disease Covid- 19 Virus among the students and instructed to vaccinate all the students and all the people. Under such circumstances, instructing the students to vaccinate is not violating any rules and it is not an offence. Further, sending the vaccination details will not attract the penal provision of 72(A) IT Act. The trial Court rightly come to the



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conclusion that no prima facie is made out to proceed the case against the accused persons and dismissed the complaint filed by the complainant.

Hence, there is no reason to interfere with the order passed by the trial Court and thus, pleaded to dismiss the criminal revision case.

5.I have considered the case in the light of the submissions made by the petitioner appeared in person and the learned counsel for the respondents.

6.The undisputed fact of the case is that the petitioner's son Srihariharan studied Computer Science Engineering, third year at the first respondent College and the other respondents are, the Principal, Head of the Department and Professors. It is known to all that during the Covid Pandemic Period, the Colleges were run through online mode. After the situation became normal, Physical mode on classes were permitted and in view of the Government Circular and direction in the Guidelines, in order to prevent the spread of infectious disease among the students' community, the vaccination was recommended. Therefore, the respondents' College



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insisted the petitioner's son for vaccination. Therefore, there is no prima facie ingredients to proceed the case against the accused persons for the offences under Sections 153(A), 308, 350 and 455 of IPC along with under Section 72(A) of IT Act. Since there was no prima facie to proceed the case against the accused persons, the trial Court, after considering the allegations in the complaint and the arguments made by the complainant, has found no sufficient ground for proceeding the case and dismissed the complaint. Under such circumstances, I find no reason to interfere with the order passed by the trial Court and no merit in the criminal revision case. Accordingly, the criminal revision case is dismissed.

Index : Yes/No
Internet : Yes/No
sms

13.02.2023

To

The Learned Judicial Magistrate Court No.IV,
Salem



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