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Crl.O.P.No.28365 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.28365 of 2023

Union of India represented by
The Superintendent of Police,
National Investigation Agency,
Branch Office, No.10, Miller's Road,
Purasaiwalkam, Chennai - 600 010.
(RC No.02/2023/NIA/CHE)

... Petitioner

Vs.

The Deputy Director,
Unique Identification Authority of India (UIDAI)
No.49, 3rd Floor, South Wing,
Khanija Bhavan, Race Course Road,
Bengaluru - 560 001.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the Deputy Director, Unique Identification Authority of India (UIDAI), 3rd Floor South Wing, Khanija Bhavan, No.49, Race Course Road, Bengaluru - 560 001/respondent herein to furnish the following details and documents pertain to the Aadhaar numbers 7345 4766 8218 (Babu S K), 6371 2773 6234 (Munna) and 8786 0802 8871 (Shahabuddin Hossain).

For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.K.Ramanamoorthy



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ORDER

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2. The case of the petitioner is that the accused persons had utilized forged Aadhar Cards and had trafficked Bangladesh nationals into the country. In view of the same, the petitioner wanted certain materials and documents to be furnished in order to enable the petitioner to proceed further with the investigation. The respondent was not willing to part with any of the details/documents by quoting Section 33 of the Aadhaar Act read with Regulation 3 of the Aadhaar (Sharing of Information) Regulations, 2016. Aggrieved by the same, the present petition has been filed before this Court.

3. The respondent has filed a reply affidavit. The respondent has



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taken a stand that as per Section 33 of the Aadhaar Act read with Regulation 3 of the Aadhaar (Sharing of Information) Regulations, 2016, the disclosure can be made only affording an opportunity of hearing and only after an order to that effect is passed by the Judge of the High Court. That apart, the respondent has also relied upon the judgment of the Apex Court in ***Justice K.S.Puttuswamy's*** case reported in ***2019 1 SCC 1*** wherein it was held that divulging of such information regarding an individual will interfere with his right of privacy. In view of the same, the respondent had taken a stand that the information contained in the Aadhaar is confidential and it cannot be parted to the petitioner without an appropriate order being passed by the competent Court.

4. Heard Mr.R.Karthikeyan, learned counsel for petitioner and Mr.K.Ramanamoorthy, learned counsel for respondent.

5. The issue that is involved in the present case is squarely covered by the earlier order passed in ***Deputy Superintendent of Police, "Q" Branch CID, Chennai v. Deputy Director, Unique Identification Authority of India (UIDAI), Bengaluru [(2022) 4 MLJ (Crl) 542]***.



Even in this case, similar stand was taken by the respondent. This Court considered the scope of Section 33 of the Aadhaar Act and also the judgment of the Apex Court in ***Justice K.S.Puttuswamy's*** case and had held as follows:

"8. If the Aadhaar Card itself is not genuine, it is open to the respondent to inform the petitioner herein that the Aadhaar Card is a fake document and not issued by them. By refusing to furnish the details sought for by the investigating agency which is permissible under law and not against the direction issued in the Judgment of Supreme Court, the due process of investigation of a serious crime gets stale. The reason of the respondent to refuse information to the petitioner herein is not justified as the information sought for is for investigation of crime.

9. Hence, the respondent is hereby directed to furnish details sought for by the petitioner herein within a period of three weeks from the date of receipt of a copy of this order. If any particulars could not be furnished, the reasons be stated to the petitioner. Accordingly, this Criminal Original Petition is allowed."

6. In the instant case, the National Investigation Agency will not be able to proceed further with the investigation without obtaining details of the Aadhaar Cards along with relevant documents. This is a case which involves trafficking Bangalesh nationals with the help of forged Aadhaar Cards. Therefore, unless and otherwise the details are furnished to the investigating agency, they will not be able to proceed further with the investigation.



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In the light of the above discussion, this Criminal Original Petition is allowed and there shall be a direction to the respondent to furnish the details sought for by the petitioner within a period of three (3) weeks from the date of receipt of a copy of this order.

09.01.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

1. The Deputy Director,
Unique Identification Authority of India (UIDAI)
No.49, 3rd Floor, South Wing,
Khanija Bhavan, Race Course Road,
Bengaluru - 560 001.

2. The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J.

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