



WP(MD) No.6793 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **20.03.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.6793 of 2024

C.Marianesan

... Petitioner

/vs./

1.The Superintendent of Police,
Kanniyakumari District,
Nagercoil.

2.The Inspector of Police,
District Crime Branch,
Nagercoil.

3.Surya @ N.Muthuraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondents 1 and 2 to take appropriate action on the complaint of the Petitioner dated 04.03.2024.

For Petitioner : Mr.C.T.Perumal

For R-1 and R-2 : Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)



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ORDER

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The learned Counsel for the Petitioner submitted that the Petitioner decided to join his son in MBBS course. One Ravi introduced Prakash to the Petitioner and he met the said person in Bangalore. The said person assured the Petitioner to get MBBS seat for his son viz., M.A.Abishek Nesan in St.John's Medical College, Bangalore and demanded Rs.10,00,000/-. Believing his words, the Petitioner paid an amount of Rs.99,900/- on 12.01.2021 as requested by the said Prakash through G-pay to his daughter by name Shalimol. While so, on 18.01.2021, the said Prakash introduced the third Respondent and asked the Petitioner to deposit further amount of Rs.5,00,000/- into the SBI account of the third Respondent. On the very same day, the Petitioner paid further amount of Rs.98,900/- to the account of the daughter of the said Prakash through G-pay. Having received the amount, the said persons have not arranged medical seat to the Petitioner's son. Hence, the Petitioner preferred a complaint to the Respondent Police requesting them to take action against the third Respondent, Prakash and his daughter. Since no action was taken by the Respondent Police, the Petitioner approached this Court by way of filing this petition.



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2. Considering the submissions of the learned Counsel for the Petitioner, this Court is of the view that as per the Judgment of the Hon'ble Supreme Court, National Eligibility Entrance Test (NEET) is conducted by the National Testing Agency of the Ministry of Human Resources, Union of India, throughout the country. Since the NEET is in force, without getting eligibility marks under the NEET, no candidate can seek seat in the medical colleges. This is to ensure quality of medical education by ensuring that eligible students get MBBS seats. Instead, the Petitioner not considering the realities available through the paper report and the judgment of Hon'ble Supreme Court, had attempted a method in getting a seat for his son, which is found contrary to the rule in force in India as on date. Even in private medical colleges, without getting eligibility marks scored in NEET, no person can purchase seats in the private medical colleges. Under those circumstances, the Petitioner believing the words of some middle men, had paid the amount, is found unacceptable. It is also found to be an illegal contract which cannot be enforced as per the law of contract through Court of law and it is also against public policy, the policy which was enforced by the Ministry of Health and Family Welfare, Government of India on the ruling of the Hon'ble Supreme Court regarding medical education. Therefore, the Petitioner's intention is only to enforce an illegal contract through the Court of law.



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3. It is to be noted that if this petition is allowed and direction is issued to the Respondent Police, the Respondent Police will surely investigate the matter and seize the money from the accused concerned. In such exigency, the Investigation Agency shall not refund the amount to the Complainant, as it encourages the illegal contract through the Court of law in the society by refunding the amount to the Complainant, who had lost the money. In such circumstances, this Court cannot enforce such a contract. If the Petitioner secures the amount by the order of this Court, he will attempt to do the same to the third party, who is seeking medical seats. Therefore, this Court is inclined to dismiss the Writ Petition under the principal of an unenforceable contract as per the law of contract.

4. With the above observations, this Writ Petition stands dismissed. No costs.

20.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Nsr



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SATHI KUMAR SUKUMARA KURUP, J.

Nsr

Order made in
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