



Crl.O.P.(MD)No.10658 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.10658 of 2021 &
Crl.M.P.(MD)No.5439 of 2021

Vijaya Nirmala

...Petitioner

vs.

1.The State Rep. by
Inspector of Police,
Trichy,
Trichy District.
(Crime No.23/07)

2.S.Balachandran

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.270 of 2013 on the file of the Judicial Magistrate Court No.V, Tiruchirapalli and quash the same insofar as the petitioner is concerned.

For Petitioner

: Mr.M.Ajmal Khan, Senior Advocate
for M/s.Ajmal Associates



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For Respondents

: Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)
for R1

Mr.K.Govindarajan,
Additional Solicitor General for R2

ORDER

Seeking to quash the final report in C.C.No.270 of 2013 on the file of the Judicial Magistrate No.V, Tiruchirapalli, the present Criminal Original Petition is filed by the fourth accused.

2. The case of the prosecution in a nutshell is as follows.

2.1. On 13.10.2007, Thiru.S.Balachandar, passport officer, Regional Passport Office, Tiruchirapalli lodged a complaint with the Inspector of Police, CCB, Tiruchirapalli stating that one Reena @ Nazeema Mariyam (A3), d/o.J.A.Julian and w/o.Tharik Hussain residing at 256, Fathimanagar, N.K.Road, Thanjavur admitted that she submitted bogus documents like ration card, voter's ID card, bank pass book and school transfer certificate for obtaining a passport. A further enquiry by him revealed that Reena @ Nazeema Mariyam (A3) visited the passport



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office on 08.10.2007 to meet one Vijaya Nirmala (A4), an upper division clerk working in the Regional Passport Office, Tiruchirapalli at 02.55 p.m., and an entry in this regard was also made in the visitors' Register. Vijaya Nirmala (A4) introduced Reena @ Nazeema Mariyam (A3) to one Siva @ Sivakumar (A1) who is running a travel agency. He has further stated that on 12.10.2007, Siva @ Sivakumar (A1) entered passport office with Reena @ Nazeema Mariyam (A3) and introduced her to one M.Durairaj (A5), lower division clerk, who in turn, took her to tatkal counter and requested the staff M.Sakthivel, lower division clerk to expedite process. After scrutinizing the application, Reena @ Nazeema Mariyam (A3) was directed to meet Saradha R.Varma, Assistant Passport Officer for a personal interview. Saradha R.Varma suspecting the genuineness of the documents, had brought Reena @ Nazeema Mariyam (A3) before the passport officer. When the passport officer enquired her, she gave conflicting replies and subsequently admitted that she submitted bogus documents.



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2.2. On the basis of the above complaint, FIR in Crime No.23 of 2007 was registered against five accused including the present petitioner (who is arrayed as A4) for the offences punishable under Sections 463, 464, 465, 471, 420 and 120(B) IPC. After concluding investigation, Assistant Commissioner of Police, City Crime Branch, Tiruchirapalli filed a final report against eleven accused for the offences punishable under Sections 258, 259, 464, 465, 468, 471, 420 IPC r/w 120 IPC.

3. Mr.M.Ajmal Khan, learned senior counsel assisted by Mr.M.U.Mohamed Aslam, learned counsel appearing for the petitioner would contend that the charges for the offences punishable under Sections 258, 259, 464, 465, 468, 471, 420 IPC r/w 120 IPC are not made out against the present petitioner for the following reasons.

(i) According to the prosecution, the petitioner (A4) had introduced Reena @ Nazeema Mariyam (A3) to one Siva @ Sivakumar (A1) who is running a travel agency. Except this allegation, no other materials are placed before the trial Court to show that the present



petitioner (A4) is also involved in the commission of offences.

(ii) The Inspector of Police, CCB, Tiruchirapalli in fact conducted a search in the house of the petitioner (A4) on 14.10.2007 and her office on 15.10.2007 in the presence of Thiru.B.Petchinadhapillai, Village Administrative Officer and one Raffic Mohammed and nothing was recovered by them.

(iii) A single Judge of this Court (Hon'ble Mr.Justice G.R.Swaminathan) in CrI.O.P.(MD)No.5251 of 2015 quashed the final report as against M.Durairaj (A5) on the ground that no material was placed before the Court to show that A5 is involved in the commission of offence. The present petitioner is also similarly placed.

(iv) He would also contend that on account of the present case, the petitioner (A4) had lost her promotional aspects and she has two young children.



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Therefore, he prayed for quashing final report as against the present petitioner (A4).

4. Per contra, Mr.K.Govindarajan, learned Assistant Solicitor General appearing for the second respondent (defacto complainant) would contend that the investigation clearly revealed that Reena @ Nazeema Mariyam (A3) on 08.10.2007 had met the petitioner (A4), who is working as an upper division clerk in the Regional Passport Office, Thiruchirapalli and she had only introduced Reena @ Nazeema Mariyam (A3) to Siva @ Sivakumar (A1). In fact, Siva @ Sivakumar (A1) had confessed before the police that Vijaya Nirmala (A4) called him over phone and requested him to prepare bogus documents in order to facilitate Reena @ Nazeema Mariyam (A3) to get a passport. It was also confessed by Siva @ Sivakumar (A1) that Vijaya Nirmala (A4) gave him a sum of Rs.3,000/- and promised to pay the balance sum of Rs.3,000/- after some time. He would therefore contend that it cannot be stated that there are no materials available against the present petitioner (A4) to charge her for the aforesaid offences. It is also his submission that even the passport officer,



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in his complaint has clearly stated that on 08.10.2007 Reena @ Nazeema Mariyam (A3) had come down to the Regional Passport office only to meet Vijaya Nirmala (A4) and there is an entry in the visitors' Register maintained by the Regional Passport Office. He therefore prayed for dismissal of the present petition.

5. Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) appearing for the first respondent would contend that the police after conducting proper investigation laid a final report and there is no valid ground to quash the same. He also prayed for dismissal of this petition.

6. A perusal of the final report shows that Reena @ Nazeema Mariyam (A3) had met Vijaya Nirmala (A4) on 08.10.2007 and Vijaya Nirmala (A4) had introduced Reena @ Nazeema Mariyam (A3) to Siva @ Sivakumar (A1), who in turn had introduced Reena @ Nazeema Mariyam (A3) to Mohammad Iliyas (A7) and Latha (A8) to get rubber stamps and various bogus documents. Manoharan (A9) prepared a bogus school



certificate and handed over the same to Mohammad Iliyas (A7) and Latha (A8). Thereafter, Siva @ Sivakumar (A1) filled up the form and handed over the same along with the documents to Reena @ Nazeema Mariyam (A3) and asked her to submit the same in the Regional Passport Office, Thiruchirapalli. When Reena @ Nazeema Mariyam (A3) went to the Passport Office, M.Durairaj (A5), lower division clerk took her to tatkal counter and requested the staff to expedite the process. However, it came to light that all the documents submitted by Reena @ Nazeema Mariyam (A3) were bogus.

7. The allegation against the present petitioner (A4) is that she had only introduced Reena @ Nazeema Mariyam (A3) to Siva @ Sivakumar (A1). It is not the case of the prosecution that she fabricated any of the documents or conspired to fabricate the documents. In fact, the house and office of the present petitioner (A4) were raided by the Inspector of Police, CCB, Thiruchirapalli and nothing was found there. The only evidence available against her is the confession statement of the co-accused Siva @ Sivakumar (A1), wherein, he has mentioned that



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Vijaya Nirmala (A4) requested him to prepare bogus documents and also gave him a sum of Rs.3,000/- towards advance. The police had not recovered any amount from Siva @ Sivakumar (A1). Thus, except the confession statement of the co-accused, there is no other piece of evidence in the instant case to show that the present petitioner (A4) has also committed the offences punishable under Sections 258, 259, 464, 465, 468, 471, 420 IPC r/w 120 IPC.

8. A confession made by an accused before a police officer is inadmissible evidence and based on the said confession statement, the present petitioner (A4) cannot be convicted. No other material is filed along with the final report which could be subsequently considered as a piece of evidence. Therefore, as rightly pointed out by the learned senior counsel, continuation of prosecution against the present petitioner (A4) would definitely result in abuse of process of law. In the circumstances, the final report against the present petitioner (A4) is liable to be quashed.



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9. Accordingly, the Criminal Original Petition stands allowed.

The final report in C.C.No.270 of 2013 on the file of the Judicial Magistrate No.V, Tiruchirapalli as against the present petitioner (A4) is quashed. Consequently, connected Miscellaneous Petition is closed.

22.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

1.The Judicial Magistrate No.V,
Tiruchirapalli.

2.The State Rep. by
Inspector of Police,
Trichy,
Trichy District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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