



Crl.R.C.(MD).No.549 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	15.12.2023
Pronounced On	:	14.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.549 of 2021
and
Crl.M.P(MD).Nos. 6129 and 6130 of 2021

Santhanam

... Petitioner

Vs.

1.The State rep by
The Inspector of Police,
City Crime Branch,
Madurai City.
(Crime No.46 of 2013)

2.Arun @ Arunachalam

... Respondents

(R2 is impleaded as per order of the Court dated 20.10.2022 in Crl.M.P.(MD).No.4660 of 2022 in Crl.R.C.(MD).No.549 of 2021)

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order dated 04.08.2021 made in Cr.M.P.No.3746 of 2016 in C.C.No.80 of 2015, on the file of the Judicial Magistrate No.I, (FAC), Madurai and set aside the same.



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Crl.R.C.(MD).No.549 of 2021

For Petitioner : Mr.C.Mayilvahanas Rajendran

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor R1

: Mr.P.M.Vishnuvarthanan for R2

ORDER

This Criminal Revision Case has been filed against the order dated 04.08.2021 made in Cr.M.P.No.3746 of 2016 in C.C.No.80 of 2015, on the file of the Judicial Magistrate No.I, (FAC), Madurai.

2. The revision petitioner is the accused No.3 in C.C.No.80 of 2015, on the file of the Judicial Magistrate No.I, Madurai. The defacto complainant, who is a practicing advocate, made a complaint before the Commissioner of Police, Madurai city, alleging that the petitioner and other two accused made a publication in the newspapers as if they have obtained a permission from the Bar Council of India and other authorities to admit the students in the law college and hence, they lured the ineligible students and admitted them. However, there was no action and hence the defacto complainant filed a petition in W.P. (MD).No.10484 of 2013, before this Court.



Crl.R.C.(MD).No.549 of 2021

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3. Pending the writ petition, the respondent police registered a case in Crime No.46 of 2013, for the alleged offences under Section 420 of IPC against A1 and A2 and after completion of the investigation; the respondent police filed a final report against the accused persons including the petitioner, arraying him as A3. The investigating agency, after conducting investigation, filed a final report stating that the petitioner, without obtaining any prior permission from the colleges situated at Karnataka and Andhrapradesh, acted as an agent of the colleges and thereby, he cheated many number of persons and hence they are liable to be prosecuted under Section 420 of IPC.

4. While so, A3 filed a discharge petition before the learned trial Judge in Crl.M.P.3746 of 2015 and the learned trial Judge, after considering the counter affidavit filed by the prosecution, dismissed the petition on the ground that the issue in question is to be agitated, after framing charges against the petitioner. Further the documents furnished by the petitioner are subsequent to the registration of the case and the same are to be considered at the time of trial. Challenging the same, the petitioner filed this revision petition before this Court.



Crl.R.C.(MD).No.549 of 2021

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5. The learned counsel for the petitioner submitted that the petitioner, only after obtaining prior permission from the colleges situated at Karnataka and Andhrapradesh, admitted the students and for the courses conducted in the said colleges and they never collected any amount and there was no cheating on the part of the petitioner and hence, without sufficient materials to prosecute the petitioner for the offence under Section 420 of IPC, the police have filled charge sheet and the same is not sustainable. To act as an authorised agent for said college, the petitioner has produced documents before the learned trial Judge. In the said circumstances, he seeks interference.

6. On the other hand, the learned Additional Public Prosecutor submitted that witnesses were examined to prove the involvement of the petitioner in the above scam and all the witnesses categorically stated that only after seeing the advertisement in the newspapers, they approached the petitioner. Further, it is stated that they got admission in the said college also. In the said circumstances, sufficient materials are available to frame the charges and also the reliance placed by the petitioner to prove the authorization is only for the subsequent years and not for the previous years for which cognizance has been taken against



Crl.R.C.(MD).No.549 of 2021

him and hence the same is not a ground to discharge the petitioner. Further, the genuineness of the certificate would can be tested only during the course of trial.

7. The second respondent appeared in person before this Court and reiterated the submission of the learned Additional Public Prosecutor and seeks for dismissal of the discharge petition.

8. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

9. Before advertng to the contention raised by the petitioner, it is relevant to extract the advertisement given by the petitioner which is as follows:



Crl.R.C.(MD).No.549 of 2021

வெற்றி நிச்சயம்

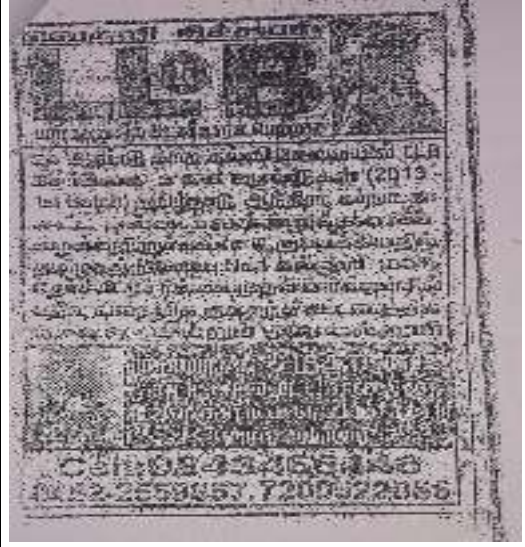
பார் கவுன்சில் அங்கீகாரம் பெற்றது

24 ஆண்டு கால கல்வி சேவையில்
LLB சேர்க்கை 3 ரூ 5 ஆண்டுகள்
(2013-1st Batch) தமிழ்நாடு. ஆந்திரா.
கர்நாடகா சட்ட பல்கலைக்கழகங்களில்
வழக்கறிஞர்களை உருவாக்குவதில்
தமிழகத்திலேயே No.1 கல்லூரி 100%
தேர்ச்சி. சேர்க்கை முதல் பார்கவுன்சில்
பதிவு வரை மிக குறைந்த கட்டணத்தில்
சேவை செய்யும் ஒரே கல்லூரி.
முதல்வர் ஏ.சந்தானம்.

M.B.M., B.Sc., B.Ed., B.L., L.L.M.,
PGDCA., CGT.,
விவேகானந்தா மனிதநேய பயிற்சி கல்லூரி.
மு.புதூர். மதுரை.:

Cell: 9843466446

0452-2569857, 7200522066



10. From the said advertisement, it is clear that the petitioner made specific averments to the effect that they got obtained permission from Bar Council of India (ghh; fTd; rpy; mq; fPfhuk; ngw; wJ) Admittedly, the petitioner has not obtained any prior permission from the Bar Council of India. In the said circumstances, the said advertisement itself shows his criminal intention, in order to lure the students and get them admitted in the said courses.



Crl.R.C.(MD).No.549 of 2021

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10.2. Further, when the petitioner is not running any college, he has made an advertisement in the newspapers that he is running a college in the name of Madurai Mastech Technologies. He has not obtained any permission from any of the authorities constituted either under the University Grants Commission Act or any other Act, however, he has stated that he is running a college. In the said circumstances, making such false advertisement itself shows that the malafide intention to attract the offence against the petitioner.

10.3. Further the petitioner produced the document to show that he obtained permission from the concerned college situated at Karnataka and Andhra Pradesh to act as an agent. The said letter is relating to the year 2013, but the admission was made prior to the year 2013. At this stage, this Court declines to consider the said submission when there is a dispute relating to the academic year. Further, some of the witnesses stated that they were admitted in the said college. In the said circumstances, this Court is not inclined to go into the fact in question.



Crl.R.C.(MD).No.549 of 2021

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11. The learned counsel for the petitioner relied the judgment of this Court in unreported judgment in *Crl.R.C.(MD).No.628 of 2016* dated **22.12.2017** and the judgment of the Hon'ble Supreme Court in the case of ***Mohammed Ibrahim and others Vs. State of Bihar and another*** reported in **(2009) 8 SCC 751** and the same is not applicable to the facts of this case, for the simple reason that in the decision of the Hon'ble Supreme Court, it is stated that there was no dishonest intention or fraudulent intention. In this case, as observed earlier, the dishonest and fraudulent intention revealed from the publication of the advertisement with the false particulars of the petitioner “as a college” and as if they have obtained the Bar Council recognition clearly constitutes the prima facie case to frame the charges. So far as the unreported judgment is concerned, in the said case, there was no discussion about the contention of the advertisement. Therefore, this Court declines to accept the contention of the petitioner that he is was running any institution, during the advertisement of the petitioner placed before this Court, when it is clearly stated that “as college recognised by BCI”. Hence, the judgment is not applicable to the present case.



Crl.R.C.(MD).No.549 of 2021

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12. In all aspect, this Court feels that it is not a cash to be allowed and accordingly, this criminal revision case stands dismissed. The learned trial Judge is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. Consequently, connected criminal miscellaneous petitions are closed.

14.03.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbm



Crl.R.C.(MD).No.549 of 2021

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- To:
- 1.The learned Judicial Magistrate No.I,
(FAC), Madurai.
 - 2.The Inspector of Police,
City Crime Branch,
Madurai City.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
 - 4.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD).No.549 of 2021

K.K.RAMAKRISHNAN, J.

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Pre-delivery Order made in

Crl.R.C(MD). No.549 of 2021

and

Crl.M.P(MD).Nos. 6129 and 6130 of 2021

14.03.2024