

Crl.O.P.No.8899 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 8899 of 2024

and

Crl. M.P. No. 6361 of 2024

S. Kalpana

... Petitioner

-Vs-

1.The Deputy Superintendent of Police,
Vellore Sub Divison, Vellore District.

2.The Inspector of Police
Veppankuppam Police Station,
Vellore District.

3.K.Bagiyaraj

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to Spl.S.C.No.23 of 2023, pending on the file of the Special Court for trial of cases under Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, Vellore and quash the same.

For Petitioner : Mr. V. Karthikeyan

For Respondents : Mr.R.VinothRaja for R1 & R2
Government Advocate(Crl. Side)
Mr.V.B.Thirupathi Kumar for R3



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No23 of 2023 on the file of the Special Court for trial of cases under Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, Vellore.

2. The case of the prosecution is that, the election of local body in Tamilnadu held in the year 2021. The village president of Tholapalli Panchayat Vellore District was declared as reserved for Schedule Caste. The third respondent who is belonging to scheduled caste community, contested for the post of village president of Anaicut Taluk, Vellore. Similarly, the accused who is belonging to Hindu Kavara Naidu was contested by producing fake and forged community certificate as if, she belongs to schedule caste community and won the election. She was declared as winning candidate for the post of panjayat president. Hence, the complaint.

3. On receipt of the said complaint, the second respondent issued C.S.R.No.685 of 2022. However, the second respondent did not register any FIR. Therefore, the third respondent was constrained to file a



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direction petition before this Court in Crl. O.P. No. 26690 of 2022. Only thereafter the second respondent registered the FIR in Crime No.321 of 2022 for the offences punishable under Sections 465, 466, 468, 471 and 420 of IPC and Section 3(1)(q), 3(2)(va) of SCST Act and forwarded the same for investigation to the file of the first respondent. The first respondent completed the investigation and filed a final report and the same has been taken cognizance by the trial Court.

4. Learned counsel for the petitioner would submit that the defacto complainant having been lost in the election and with inferior motive lodged the complaint. The complaint itself is not maintainable and the third respondent ought to have filed election petition as contemplated under Section 258 of Panchayat Act r/w 122 of Panchayat Election Rules. The respondents 1 and 2 have no jurisdiction to entertain any complaint. Further, the trial Court also has no jurisdiction to question the genuineness of community certificate, since the issue is no more *res-integra*, questioning the genuineness can be gone into only by way of appropriate authority.

5. In support of his contention, he also relied upon the judgment of



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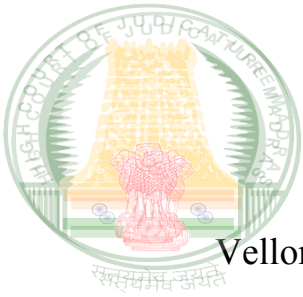
the Hon'ble Supreme Court of India reported in **(1994) 6 SCC 241** in

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Kumari Madhuri Patil v. Additional Commissioner, Tribal

Development. The offence under SCST Act are not attracted as against the petitioner, even according to the case of the prosecution. Further, no Courts have jurisdiction to interfere with community certificate. It can be tested before the District Level Committee.

6. On perusal of the record and also on the submissions made by the learned Government Advocate and the third respondent revealed that the charge itself levelled as against the petitioner, she forged and fabricated the community certificate as if, she belongs to SC Community. The jurisdictional Thasildar made statement that the petitioner was issued community certificate as she belong to Hindu Kavara Naidu. Further, on the complaint, the District Vigilance Committee conducted detailed enquiry and found that the petitioner does not belong to SC Community. Further, the said community certificate was also not issued by the competent authority and it is forged and fabricated one by the petitioner. Therefore, the Adi dravidar Welfare Officer, Vellore District lodged complaint to the Revenue Divisional Officer, Gudiyatham,



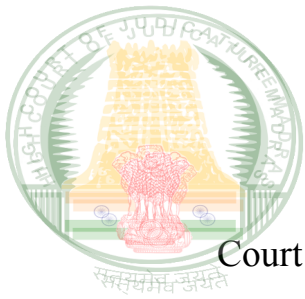
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Vellore District by its proceedings dated 16.06.2023 cancelled the community certificate produced by the petitioner along with her nomination to the post of panjayat president.

7. Though, it is under challenged before this Court, it is pending without any interim order. The RDO cancelled the community certificate only after receipt of the report from the concerned Thasildar and the District Level Scrutiny Committee. Therefore, the charges under Sections 465, 466, 468, 471 and 420 of IPC are clearly made out as against the petitioner. It is not the case of the third respondent that the petitioner's election itself is void. The petitioner's candidature never challenged by the third respondent and challenged by way of criminal complaint.

8. When it being so, the grounds raised by the petitioner are not applicable to quash this proceedings and the judgment cited by the learned counsel for the petitioner are not at all applicable to the case on hand.

9. Learned counsel for the petitioner attempted to confuse this

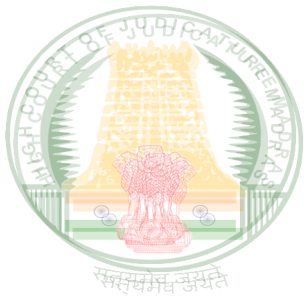


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Court as if, the complaint is lodged challenging the post of president and the community certificate. As stated supra, it is not the case of the third respondent that challenging the community certificate produced by the third respondent or challenging her candidature or challenging the post of president. The present case is simple that the petitioner forged and fabricated the community certificate as if she belongs to SC Community and contested in the election of panchayat president post, since the Tholapalli panchayat, Anaicut Taluk, Vellore District is reserved for SC alone.

10. Insofar as the offences under the SCST Act are concerned, it is relevant to extract provision under Section 3(1) (q) of SCST Act, which reads as under: -

“(q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;”



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11. The petitioner forged and fabricated the community certificate

as if she belongs to SC Community and filed along with her nomination to contest to the post of president in the reserved category and made the general public that she belongs to SC Community and obtained votes from the general public. Therefore, the said offence is made out under Section 3(2)(va) of SCST Act.

12. Admittedly, the petitioner produced bogus community certificate as if she belongs to SC Community and contested as against the third respondent who belongs to SC community to the post of president. Therefore, this offence is clearly made out as against the petitioner.

13. In view of the above, this Court finds no ground to quash the entire proceedings.

14. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing

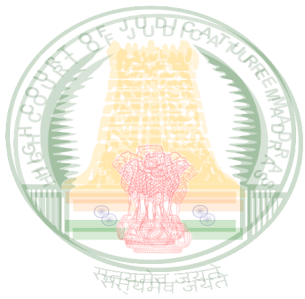


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with the petition to quash the entire criminal proceedings held that the

High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

15. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

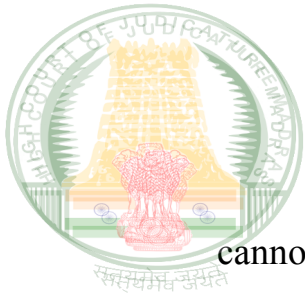


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16. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

17. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet



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cannot be entertained to quash the entire proceedings.

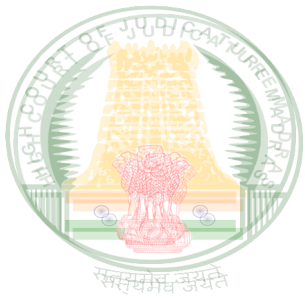
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18. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.23 of 2023 on the file of the Special Court for trial of cases under Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, Vellore. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

19. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation : Yes/No
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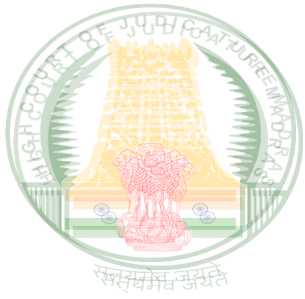
To

1.The Special Court for trial of cases under Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, Vellore.

2.The Deputy Superintendent of Police,
Vellore Sub Divison, Vellore District.

3.The Inspector of Police
Veppankuppam Police Station,
Vellore District.

4.The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN. J,

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