

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.11524 OF 2022

Between:

Mohammed Hafeez

... Petitioner

And

The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 13.03.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CrI.P.No.11524 of 2022

% Dated 13.03.2023

Mohammed Hafeez

... Petitioner

And

\$ The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another

... Respondents

! Counsel for the Petitioners: Sri M.A.Mujeeb

^ Counsel for the Respondents:

1) Sri S.Sudershan
Additional Public Prosecutor for R1

2) Sri Swaroop Oorilla
SC for TAPHC

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.11524 OF 2022****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner/A6 to quash the proceedings against him in C.C.No.3868 of 2021 on the file of X Additional Chief Metropolitan Magistrate at Secunderabad. The offences alleged against the petitioner are under Sections 466, 474, 380, 109 & 120-B of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The facts of the case are that on 01.02.2021 a complaint was filed stating that they found a forged and fabricated document which appears to have been executed on a Rs.100/- Non Judicial Stamp paper dt. 11.01.2021 and is in circulation on Whats-App application. The said document was allegedly attested and issued by XVI Additional Judge-cum-XX Additional Chief Metropolitan Magistrate, Hyderabad on 11.01.2021. Having

examined the said copy of the affidavit it was known that no such affidavit was signed by the XVI Additional Judge-cum-XX Additional Chief Metropolitan Magistrate and it is a forged one. On the basis of the said complaint since the signature on the said document was not that of the Presiding Officer, though stamp and seal was affixed, the Police investigated into the said complaint.

4. During the course of investigation, the Police identified Accused No.1 who is the Attender at XVI Additional Judge-cum-XX Additional Chief Metropolitan Magistrate, to be responsible for issuance of fake affidavit with the seal and signature of the learned Magistrate. Accused No.1 was the Attender, Accused No.2 was a Stationery Vendor and Accused No.3 was Licensed Stamp Vendor and Accused No.4 was an Advocate Clerk and Accused No.5 was an Advocate. This petitioner who is arrayed as A6 is a Clerk of A5-Advocate. Accused No.7 was identified as a mediator for getting notary affidavits/Legal Heir Certificates and Accused No.8 was working as an Assistant to one Adil who is also responsible.

5. The Police seized stamp of the Court from Accused No.1. Thereafter, it was found that Accused No.1 signed 50 to 60 affidavits to different persons with the Court seal and stamp.

6. The role attributed to Accused No.1 is that he had signed on affidavits and put stamp and seal of the Court for earning money. He was keeping one wooden seal and stamp of the Court, secretly without knowledge of the Court and used to carry it around every day in his bag.

7. The case against the petitioner is that while he was working as a Clerk with Advocate-A5, on 11.01.2021, Advoate-A5 called A3 and asked him to prepare a Leal Heir Certificate for one Smt.Khairunnisa Begum for registration purpose for which he agreed and asked Rs.1800/-. The relevant documents i.e. death certificate, Aadhar cards of legal hers were sent through this petitioner-A6 to be handed over to Accused No.3. Thereafter, A3 prepared the affidavit in the name of Smt.Khairunnisa Begum and handed over to A4. There after A4 handed over the same to A2 and later A2 handed over the affidavit to A1 who has signed the affidavit by affixing the seal and stamp of Court and Presiding Officer.

8. Learned Counsel appearing for the petitioner would submit that even assuming that the petitioner had taken Aadhar Cards and Legal Heir Certificates which were handed over by A5 and delivered them to A3, none of the offences alleged are made out against this petitioner. The petitioner acted as a courier for taking the documents which are Aadhar Cards and Death Certificate which are admittedly, not subject matter of the present case and they are not fabricated documents.

9. On the other hand learned Additional Public Prosecutor submits that the case is serious in nature for the reason of the signature of Magistrate was being forged by A1 and the other accused have taken advantage by collecting money from various persons for the purpose of creating fake documents. Admittedly, 50 to 60 affidavits were signed by Accused No.1 and at one stage or the other all the accused are involved. It is for the trial Court to decide regarding the involvement of this petitioner. It is a case of circumstantial evidence and unless the prosecution is given a chance to adduce evidence, it cannot be said that this petitioner is not involved, accordingly, prayed to dismiss the petition.

10. Admittedly, the allegation against this petitioner is that he has taken death certificate and Aadhar cards of the persons and

handed over them to A3. The said documents were taken at the instance of Advocate where he was working as a clerk. Even, after the certificates was prepared, it was neither handed over to this petitioner nor the role of this petitioner is mentioned anywhere regarding collection of the fake affidavit or his involvement in any other manner except handing over documents as directed by A5.

11. To attract an offence under Section 466 of the Indian Penal Code, a person is made liable for forging a document purporting to be a record or proceeding of or in a Court of Justice, or a register of birth etc.

12. Further, an offence under Section 474 of IPC is attracted for being in possession of a document which is known to be forged and held with the intention of using it as a genuine.

13. Neither the investigation alleges that petitioner-A6 had forged the document or the affidavit in question nor he was in possession and using it as a genuine in any manner. Since neither the ingredients of Section 466 nor Section 474 are attracted, this Court deems it appropriate to quash the proceedings against this petitioner who acted as a courier at the instance of A5, only to carry Aadhar cards and death certificate to

be handed over to A3. Further it is not mentioned that this petitioner had any knowledge about the affidavit to be prepared or the purpose for which documents were asked to be handed over to A3.

14. Accordingly, the Criminal Petition is allowed and the proceedings against this petitioner in C.C.No.3868 of 2021 on the file of X Additional Chief Metropolitan Magistrate at Secunderabad, are hereby quashed.

Miscellaneous Petitions, pending if any, shall stand closed.

K.SURENDER, J

Date: 13.03.2023

Note: L.R.copy to be marked.

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THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.11524 OF 2022

Dt.13.03.2023

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