



Crl.O.P(MD).No.5887 of 20

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2023

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CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.5587 of 2020

and

Crl.M.P.(MD)Nos.3183 and 3184 of 2020

Selvaganapathi

...Petitioner

Vs

1.The Inspector of Police,
Sakkarankoil Town Police Station,
Tirunelveli District.
(Crime No.317 of 2018)

2.Chelladurai

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in pertaining to charge sheet in C.C.No.10 of 2020 on the file of the learned Judicial Magistrate, Sankarankovil and quash the same to the petitioner alone.

For Petitioner	: Mr.M.Solaisamy
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: Mr.A.L.Kannan

ORDER

This petition is filed to quash the charge sheet in C.C.No.10 of 2020, on the file of the learned Judicial Magistrate, Sankarankovil.



2. According to the petitioner, on the complaint preferred by the second respondent herein, the case was registered by the first respondent in Crime No.317 of 2019 for the offences under Sections 408 and 420 of IPC. The prosecution case is that the complaint was preferred by one K.Chelladurai, Deputy Commissioner/Administrative Officer, Sri Sankaranarayanaswamy Temple, Sankarankoil, the second respondent alleging that the petitioner was working as a clerk in 'Sri Pandaaram' Section in Sri Sankaranarayanaswamy Temple and his duty is to collect and store the small figures of Nagar and Scorpion, presented by the devotees. It is his duty to maintain the register in respect of those replicas. From 20.09.2007 to 31.03.2011, the petitioner collected up to 589 kilogram of such figures of snakes, lizard and scorpio replicas. Thereafter his successors collected the replicas to a tune of 1181.50 kilograms of figures were stolen and caused a great loss to the temple and hence, the complaint was lodged to the respondent police.

3. The first respondent filed a final report alleging that one Selvaganapathi, who maintained the register, retired from service on 31.10.2010. The petitioner Selvaganapathi was orally directed by the second respondent to assume the charge from November 2010 to March 2011 and had collected to a tune of 589 kilograms of figures. Neelakandan assumed charge from 01.04.2011 to 03.2012 and collected 212.500 kilograms. From April 2012 to 09.03.2013, one Muruganandam collected 258 kilograms and



discharged his duty by handing over 470.5 kilograms of figures to one Chandrakumar. He took charge from 09.03.2013 to 30.06.2013 and collected 122 kilograms. He failed to hand over 592.5 kilograms to his successor Sowrirajan. The occurrence took place from July 2007 to June 2013. Hence, the charge sheet was filed against the petitioner and Chandrakumar, whereas others were discharged from the offence. The petitioner was serving as 'Sri Pandaram' at Sri Sankaranarayanawamy Temple, Sankarakoil from 20.09.2007 to 31.03.2011. When he discharged from 'Sri Pandaram', he was possessing totally 589 kilograms of figures of nagar. From 01.04.2011, Neelakandan hold 'Sri Pandaram' and did not record 589 kilograms of figures in temple accounts. On 02.04.2012, he handed over 212.5 kilograms of figures only, which were got during his tenure to Murugananadam.

4. During the course of tenure of Mrugananadam, on 28.12.2012, Murugananadam prepared a list of figures in File No.40 of 2013/A-Section. It was recorded that 988.500 kilograms were available, which were collected from the September 2007 to December 2012. In order to get approval from the Thakkar of the temple, the proposal was acknowledged and recorded by the second respondent through a sealed letter No.40 dated 08.01.2013. On 28.12.2012, the figures which were in possession of the petitioner were all very well available at the temple and no misappropriation was committed by the petitioner. On 31.12.2012, the petitioner was retired from service. After six



years, a false allegation was made against the petitioner with ulterior motive.

The first respondent without conducting proper investigation, filed the present charge sheet against the petitioner.

5.The learned counsel appearing for the petitioner would contend that as per record already disputed properties were handed over to Muruganandam and the list was also enclosed. As per list, 988.500 kilograms was available on record. The main perpetrator is one Muruganandam, who is in charge of post in the particular period but his name was deleted in the charge sheet. Per contra the petitioner and another Chandrakumar were charge sheeted. The learned counsel appearing for the petitioner further argued that the second respondent admitted that Muruganandam was in custody of 988.500 kilograms of figures and he handed over the same for auction and the list prepared by him shows that availability of figures, thereby this petitioner has no way responsible. Hence, the charge sheet is liable to be quashed.

6.The learned Government Advocate appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR in Crime No.317 of 2019 for the offences under Sections 408 and 420 of IPC and thereafter, they filed a final report after examination of the witnesses. Since there is *prima facie* case to proceed against the petitioner, charge sheet was filed and at this stage, this Court need



not go into veracity of the allegations in the charge sheet. It is the matter of trial and further, the petitioner created the records, as if the properties are available but in fact without producing those materials, created the records. Thereby the first respondent have filed a charge sheet.

7.The learned counsel appearing for the second respondent also contended the same as contended by the learned Government Advocate. Further he sought for adjournment for clarification in some aspects, since this Court has available records to proceed with the case, the request is declined.

8.This Court heard both sides and perused the materials available on record.

9.On perusal of the records, it is observed that this petitioner sent a reply to the temple authorities dated 29.03.2018 and enclosed a list of available stock for the figures of nagar and other and the said list containing 988.500 kilograms of figures. The said list was prepared by the Muruganadam, Sri Pandaram dated 28.16.2012. Therefore, according to the petitioner, his successor Muruganadam handed over the figures of 988.5 kgs. But as per the investigation of the first respondent, the same was not handed over to the successor and only created the records but the actual figures were not handed over physically. Thereby it needs elaborate trial and after elaborate



trial, it has to be decided. Since the Police have filed the final report as against two officials, it is for the petitioner to elicit all the ground raised by him in this petition, to be advanced in the lower Court. Since there are some allegations as against the petitioner and *prima facie* material available as per final report, which needs elaborate trial, this Court cannot look into the veracity of the documents filed by the parties and it is for the trial Court to look into the materials and to pass orders in accordance with law.

10. Another contention raised by the petitioner is that some of the main accused were deleted in the charge sheet. In this context, it is for the second respondent who is the defacto complainant herein to take care of it by filing appropriate petition before appropriate forum, if he is aggrieved. Therefore, as discussion supra, there is no sufficient ground to quash the charge at this stage.

11. The learned counsel appearing for the petitioner prayed before this Court that if this Court is not inclined to allow this petition may order for dispensing the personal appearance of accused before the trial Court. In this context, it is for the trial Court to decide depending upon the nature of the case by taking into consideration of the age and other circumstances.



12.In view of the above, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are closed.

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20.07.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

To

- 1.The Judicial Magistrate, Sankarankoil.
- 2.The Inspector of Police,
Sakkarankoil Town Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P. DHANABAL,J.

Mrn

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