

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.08.2015

DELIVERED ON : 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.16141 of 2015 and 5996 and 5997 of 2012
and M.P.Nos.1 and 2 of 2012 in Crl.O.P.No.5996 and 5997 of 2012

Chitra Devi ..Petitioner in Crl.O.P.16141 of 2015
C.Devika ..Petitioner in Crl.O.P. 5996 of 2012
R.Dhandapani ..Petitioner in Crl.O.P. 5997 of 2012

Vs

Station House Officer
CCIW, CID
Villupuram
(Cr.No.2/2011)

..Respondent in Crl.O.P.16141 of 2015

State through the
Inspector of Police
CCIW Department
Villupuram District.

.. Respondent in Crl.O.P.5996 of 2012
and Crl.O.P.5997 of 2012

Crl.O.P.No.16141 of 2015 filed under Section 482 Cr.P.C., to set aside the order of the Principal District Judge, Villupuram in Crl.R.P.46/2014 dated 25.03.2015 and of the Judicial Magistrate-1, Villupuram in C.C.No.467 of 2011 dated 25.06.2014 and consequently to discharge the petitioner/accused No.4 from the charges levelled under Section 120B, 408, 409, 471 and 477A IPC in Cr.No.2 of 2011 on the file of the respondent police.

Crl.O.P.Nos.5996 and 5997 of 2012 filed under Section 482 Cr.P.C.to call for the records pertaining to the charge sheet in C.C.No.467 of 2011 on the file of the Judicial Magistrate Court No.I, Villupuram and quash the same as illegal in respect of the petitioners/accused no.3 and accused no.2 respectively are concerned.

For Petitioner
in Crl.O.P.16141/2015

Mr.P.Anbarasan

For petitioners
in Crl.O.Ps.5996 & 5997/12

Mr.W.Camyles Gandhi

For Respondents
in both Crl.O.Ps.

Mr.C.Emalias,
Addl.Public Prosecutor

C O M M O N O R D E R

R.Dhandapani [A2]/petitioner in Crl.O.P.No.5997 of 2012, C.Devika [A3]/petitioner in Crl.O.P.No.16141 of 2015 and Chitra Devi [A4]/petitioner in Crl.O.P.No.5996 of 2012 have filed these quash petitions to quash the prosecution in C.C.No.467 of 2011 pending on the file of the learned Judicial Magistrate -I, Villupuram for offences under Sections 120B, 408, 409, 471 and 477A IPC.

2. The first accused in this case is one S.Venkataramanan who was working as Assistant Manager in Villupuram District, Central Co-operative Bank from 01.04.1996 to 31.03.1997. It is alleged by the prosecution that the said Venkataramanan had misappropriated Rs.2,20,200/- and had siphoned it to the accounts of the accused who are the petitioners herein. Before initiating prosecution, an enquiry under Section 81 of the Co-operative Societies Act was conducted by the Co-operative Sub Registrar and findings have been given implicating the petitioners and Venkataramanan in the offence. Only thereafter, FIR was registered and Final report filed.

3. It is contended by the learned counsel appearing for the accused that Venkataramanan had confessed to the crime and had even repaid the amount and therefore, the prosecution launched against these petitioners is an abuse of process of law.

4. Coming to the materials as against the accused herein, it is seen that, Venkataramanan [A1] had transferred Rs.15,000/- into the account of Dhandapani [A2] on 01.03.2010 as if he is entitled to refund of excess amount. Similarly, Venkataramanan [A1] has created records as if a sum of Rs.20,000/- is due to Devika [A3] and has transferred the said sum to her account on 01.03.2010. That apart, Venkataramanan [A1] has created records as if a sum of Rs.1,60,000/- is due to Chitra Devi [A3] and has transferred the said sum to her account on 08.03.2010. Learned counsel appearing for the accused submitted that, the accused had given loan to Venkataramanan [A1] and that he had only returned the loan amount. In support of this contention, he relied upon certain promissory notes.

5. This Court cannot go into these factual aspects in a quash petition under Section 482 Cr.P.C. and they have to be left to be decided by the trial Court. It is true that Venkataramanan has confessed that he had only misappropriated the amount from the Bank, but that confession will not absolve criminal liability of the petitioners/accused herein, inasmuch as they have conspired with him by permitting him to park the misappropriated amounts into their accounts as aforesaid.

6. Learned counsel for the accused submitted that none of the witnesses have spoken anything about the conspiracy aspect in their statement to the Police. Conspiracy is an inchoate crime and it is done in secrecy. Therefore, seldom will there be any direct

evidence to bring the charge of conspiracy. That is why Section 10 of the Indian Evidence Act permits special rule of evidence for conspiracy cases. Without the active connivance of the petitioners, the misappropriated amount could not have been drawn by Venkataramanan [A1] in their names and transferred to their accounts.

7. As regards Crl.O.P.No.16141 of 2015, Chitra Devi filed discharge application before the trial Court, which was dismissed by the learned Judicial Magistrate-I, Villupuram on 25.06.2014 challenging which she approached the Sessions Court in Crl.R.P.No.46 of 2014 which was also dismissed on 25.03.2015, aggrieved by which, she has approached this Court under Section 482 Cr.P.C.

8. Under Section 397(2) Cr.P.C., a second revision is not maintainable. Of course, a petition under Section 482 Cr.P.C. is maintainable when it is shown that the order passed by the Courts below suffers from serious legal infirmity warranting interference by this Court in exercise of its inherent power. In this case, both the Courts below have found on facts that, there are materials to proceed against Chitra Devi. This Court also perused the Final Report and Section 161 Cr.P.C. statements and found that there are sufficient materials against all the petitioners for the trial to proceed with.

In the result, the Criminal Original petitions are dismissed and the trial Court is directed to expeditiously conduct the trial. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

- 1.The Station House Officer
CCIW, CID, Villupuram.
- 2.The Inspector of Police
CCIW Department Villupuram District.
- 3.The Principal District Judge, Villupuram.
- 4.The Judicial Magistrate No.I, Villupuram.
- 5.The Public Prosecutor
High Court, Madras.

+1cc to M/s. W. Camyles Gandhi, Advocate, S.R.No.45038

+1cc to M/s.P.Anbarasan, Advocate, S.R.No.44674

ALA (CO)

EU(16/09/2015)

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5996 and 5997 of 2012