



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P. (MD)No.21700 of 2015

and

M.P (MD)No.1 of 2015

S.Joseph Mary

... Petitioner/Accused No.12

-Vs-

1.The State through

The Sub-Inspector of Police,
CCIW CID Police Station,
Ramanathapuram,
Crime No.1 of 2015

... 1st Respondent/De-jure Complainant

2.S.Rajendran Prasad

Deputy Registrar of Co-operative Society,
Office of Deputy Registrar of Co-operative Society,
Paramakudi,
Ramanathapuram.

... 2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to the impugned FIR in Crime No.1 of 2015, dated 16.02.2015 pending on the file of the 1st respondent police and to quash the same in so far as the petitioner / accused No.12 is concerned.

For Petitioner : Mr.A.Ravichandra Ramavanni

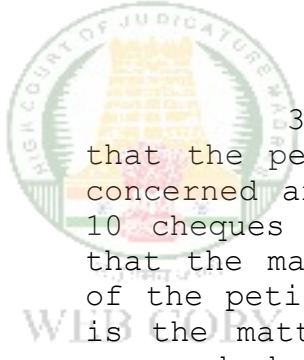
For Respondent-1 : Ms.S.Prabha

Govt.Advocate (Crl.side)

O R D E R

The petitioner has come forward with this petition, seeking to quash the proceedings in Crime No.1 of 2015, pending on the file of the 1st respondent police, in so far as the petitioner / accused No.12 is concerned.

2. The learned counsel appearing for the petitioner would submit that based on the complaint given by the Deputy Registrar of Co-operative Society, Paramakudi, Ramanathapuram, the 2nd respondent herein, a case in Crime No.1 of 2015 has been registered, under Sections 403, 406, 408, 420, 468, 477(A), 120(B), r/w. 34 of IPC, against the petitioner, for no fault of her. He would further submit that the petitioner was working as a Branch Manager in the Central Co-operative Bank, Ramanathapuram District and she has nothing to do with the alleged offence, as alleged in the complaint. According to her, out of four details, on which, cheques were issued from 25th May to 28 May 2011, she only acted as the Branch Manager only on 25.05.2011 and she was on casual leave from 26.05.2011 to 28.05.2011. The petitioner submitted that her name did not find a place amongst others and that there is no prima facie case much less against the petitioner.



3. The case of the prosecution is that there are instructions that the petitioner will have to ascertain the signature of the persons concerned and thereafter disburse the cheque. It is stated that out of 10 cheques issued, 8 are bogus. Since the FIR has been registered and that the matter is under investigation, it is too premature on the part of the petitioner to contend that she has not committed any offence. It is the matter for evidence and the petitioner cannot at the threshold approached this Court to stall the further proceedings before the Magistrate, if any initiated, against the petitioner.

4. I have heard the learned counsel appearing on either side and perused the materials available on record.

5. I find much force in the contention of the respondent. The disputed question of facts cannot be gone into by this Court, in view of the Judgment of the Hon'ble Supreme Court in HMT Watches Ltd., Vs. M.A.Abida & Another reported in (2015(2) CTC 446), wherein, it has been held that quashing of criminal complaint on the disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaints. The petitioner is entitled to have the defence before the appropriate authority / Court, as per the provisions of law and stalling the entire proceedings on the ground that instructions, dated 25.05.2011 were received only after she performed duty i.e., the amount was disbursed that too, only after verification of the signatures of the persons concerned. Even otherwise, whenever the cheque is issued, it is the duty of the Bank Officials to verify the signature before disbursing the amount. Whether the petitioner has committed any offence or not is a matter for investigation and it is not for the trial Court to decide the same. Hence, I find no reason to entertain the relief, as sought for by the petitioner.

6. In the result, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(co)

/True copy/

Sub AssistantRegistrar

To

1.The Sub-Inspector of Police,
CCIW CID Police Station,
Ramanathapuram

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
+1cc Mr.A.Ravichandra Ramavanni, Advocate SR.No.66659

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Cr1.O.P. (MD) No.21700 of 2015
19.11.2015