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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

Crl.O.P.(MD)No.12623 of 2011

and

M.P(MD).No.1 of 2011

1.A.Sermachamy
2.P.Shanmugaiah
3.M.Balasubramanian

... Petitioners

Vs.

The Inspector of Police,
Commercial Crime Investigation Wing,
Thoothukudi District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the case in C.C.10 of 2011 on the file of the Judicial Magistrate No.II, Tirunelveli and quash all further proceedings as against the petitioners.

For Petitioners	: Mr.D.Shanmugaraja Sethupathi
For Respondent	: Mrs.S.Prabha
	Government Advocate (Crl. Side)

O R D E R

Seeking to quash the proceedings in C.C.No.10 of 2011 on the file of the learned Judicial Magistrate No.II, Tirunelveli, the petitioners are come up with this petition.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent and perused the records.

3. The petitioners are arrayed as A-5, A-6 and A-7. In pursuant to the enquiry initiated under Section 81 of the Tamilnadu Co-operative Societies Act, an enquiry report was submitted by the Enquiry Officer. He recommended the criminal prosecution against the employees including the petitioners on the basis and courses in Crime No. 1 of 2011 alleged offences under Sections 408, 467, 468, 471, 477(A) r/w 120(B) & 34 IPC.

4. The allegations are different insofar as the petitioners are concerned. The allegation is that the co-accused namely Secretary and the Manager gave the provident fund loan beyond the permissible limit. Totally all the three petitioners have been sanctioned a sum of Rs.1,11,000/- (Rupees one Lakh and eleven thousand only) from the provident fund account. It also appears that the petitioners have repaid the said amount.

5. As rightly submitted by the learned counsel for the petitioners, they are only the recipients of the amount. They had no role with the offences alleged against themselves, appropriation and the falsification of the records. Therefore they stand in different foot as against the other accused, though the learned Government Advocate (Crl. Side)



submitted that the total amount is Rs.52,36,369/- (Rupees fifty two lakhs and thirty six thousands and three hundred and sixty nine only). The said amount was sanctioned and issued by the Secretary and the Manager to the petitioners.

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6. Considering the same, this court is of the view that the petitioners filed this petition for liability to quash insofar as the charges and allegations levelled against the petitioners alone. Accordingly all the proceedings in C.C.No.10 of 2011, pending on the file of the learned Judicial Magistrate No.II, Tirunelveli is quashed insofar as the petitioners alone are concerned.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar[Crl.Side]

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Tirunelveli.
2. The Inspector of Police,
Commercial Crime Investigation Wing,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Shanmugaraja Sethupathi,Advocate SR.No.35161

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