

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.21776 OF 2014
AND M.P.NOS.1 TO 3 OF 2014

R.Krishnaraj

.. Petitioner

Versus

- 1.The Deputy Registrar of Cooperative Societies
Cuddalore Region, Cuddalore District.
- 2.The Cooperative Sub Registrar / Enquiry Officer
The Cuddalore Agricultural Producers
Cooperative Marketing Society
Cuddalore District.
- 3.The Inspector of Police
Commercial Crime Investigation Wing
Cuddalore Region
Cuddalore District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the second respondent in his proceedings dated 01.04.2014 and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.N.Suresh

For Respondents 1&2 : Ms.T.P.Savitha
Government Advocate

For Respondent - 3 : Mr.R.Rajeswaran
Special Government Pleader

O R D E R

Heard Mr.N.Suresh, learned counsel appearing for the petitioner, Ms.T.P.Savitha, learned Government Advocate appearing for the respondents 1 and 2 and Mr.R.Rajeswaran, learned Special Government Pleader for the third respondent.

2.The petitioner was the Secretary of the second respondent Co-operative Society and he is aggrieved by the report submitted by the second respondent, who has been appointed as an Enquiry Officer, under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 (shortly "the Act"). On a prima facie reading of the report, it is seen that the entire misappropriation has been committed by one Mr.K.Karunanithi and action has been initiated against him and he has remitted the entire money. Therefore, pursuant to the enquiry report, no action under Section 87 of the Act, has been initiated.

3.The grievance of the petitioner is that in the last para of the enquiry report, a vague observation has been made stating that the petitioner has also acted hand in glove with the said K.Karunanithi. According to the petitioner, he is the Special Officer of the Society and even as per the findings of the report, the entire fraud had been committed by the said K.Karunanithi.

4.In my view, the present writ petition is premature since the impugned proceedings is only a report submitted by the second respondent under Section 81 of Act. Under normal circumstances, the report could lead to a disciplinary proceeding against the employee of the society as well as action under Section 87 of the Act for recovery of the amount, if any, misappropriated and criminal prosecution. The petitioner is worried only about the third aspect because that alone has been recommended by the second respondent.

5.The learned counsel for the petitioner refers to the order dated 15.02.2011 passed by this Court in CrI.O.P.No.24211 of 2009 filed by one K.C.Sundaram, wherein the petitioner therein, sought to quash the criminal charge framed against him, which was taken on file as C.C.No.463 of 2009 on the file of the learned Judicial Magistrate No.II, Salem District. It is submitted by the learned counsel for the petitioner that in the said order, this Court referred to the earlier order dated 05.07.2010 passed by this Court in CrI.O.P.No.20312 of 2008 stating that once a person has been exonerated from the enquiry under Section 87 of the Act, arraying him as an accused is not valid.

6.It has to be pointed out that in the said case, the challenge was to the final report filed by the respondent therein, based on the report of the Deputy Registrar/Investigating Officer, which was submitted after a detailed enquiry/investigation. But however, in the instant case, the matter has not travelled to such a position, in the light of the fact that the proceedings are only in the state of

a report. Therefore, as pointed out earlier, the present writ petition is premature. It is needless to state that when the report reaches the third respondent, the third respondent should not be solely guided by the report of the second respondent, but as an Investigating Officer, he should investigate, whether any criminal offence has been committed. While doing so, he should also bear in mind the circular dated 11.12.1991 issued by the Registrar of Co-operative Societies.

7. With the above observation and direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

TK

To

1. The Deputy Registrar of Cooperative Societies
Cuddalore Region
Cuddalore District.
2. The Cooperative Sub Registrar / Enquiry Officer
The Cuddalore Agricultural Producers
Cooperative Marketing Society
Cuddalore District.
3. The Inspector of Police
Commercial Crime Investigation Wing
Cuddalore Region
Cuddalore District.

2 ccs to Government Pleader, sr.27901 & 27367
1 cc to Ms.T.P.Savitha, Government Advocate, sr.27542
1 cc to Mr.Kaviveerappan, Advocate, sr.27226

W.P.NO.21776 OF 2014

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kra 01.06.2016