

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.Nos.1304, 1364 & 1310 of 2015
and
M.P.Nos.1 & 2 of 2015 (in all cases)

P.Basker
S/o.Periyaannan

... Petitioner in all Revisions/
9th Accused in Crl.RC.1304 & 1364/15
7th Accused in Crl.RC.1310/15

Vs.

1. State by
Deputy Superintendent of Police,
CCIW-CID,
Salem. Respondent/Respondent/Complainant
2. The Joint Registrar,
Co-operative Societies
(Housing Development),
Salem Division, Salem. Respondents in all Revisions

Criminal Revisions filed under section 397 & 401 of the Code of Criminal Procedure, against the orders of learned Judicial Magistrate III, Salem, passed in (i) Crl.M.P.No.1214 of 2015 in C.C.No.103 of 2011 (ii) C.M.P.No.1195 of 2015 in C.C.No.104 of 2011 on 16.09.2015 and (iii) Crl.M.P.No.1196 of 2015 in C.C.No.105 of 2011 respectively.

For Petitioner : Ms.T.Dharani

For Respondent : Mr.C.Iyyapparaj,
Government Advocate [Crl.side]

C O M M O N O R D E R

These revisions arise against orders of learned Judicial Magistrate III, Salem, passed in (i) Crl.M.P.No.1214 of 2015 in C.C.No.103 of 2011 (ii) Crl.M.P.No.1196 of 2015 in C.C.No.105 of 2011 and (iii) C.M.P.No.1195 of 2015 in C.C.No.104 of 2011 on 16.09.2015.

2. The prosecution case is that first accused after having been suspended from the secretaryship of Dr.Ambathkar Co-operative Housing Building Society, executed sale deeds in favour of non-members informing himself of holding such capacity and thereby caused loss to Government by way of enabling registration of sale deeds utilizing the waiver of stamp duty available to the society. Petitioner sought discharge in CrI.M.P.No.1214 of 2015 in C.C.No.103 of 2011 (ii) CrI.M.P.No.1196 of 2015 in C.C.No.105 of 2011 and (iii) C.M.P.No.1195 of 2015 in C.C.No.104 of 2011, which were dismissed under orders dated 16.09.2015. Hence, these revisions.

3. Heard learned counsel for petitioner and learned Government Advocate [CrI.side].

4. While the prosecution would have a direct case against the first accused and may have a case against the other accused/purchasers of the property, who according to the prosecution were aware of first accused not holding the post of Secretary and despite such awareness had obtained sale deeds in their favour on payment of reduced stamp duties applicable to societies, the prosecution case insofar as this petitioner is concerned is that he is the person who prepared documents on behalf of purchasers. The prosecution alleges that he had acted in conspiracy with the other accused. It is seen that the petitioner's role was limited only to preparing sale deeds. There is no material to show that while he prepared such document he was aware that first accused was not holding office.

These Criminal Revisions stand allowed. The orders of learned Judicial Magistrate III, Salem, passed in (i) CrI.M.P.No.1214 of 2015 in C.C.No.103 of 2011 (ii) CrI.M.P.No.1196 of 2015 in C.C.No.105 of 2011 and (iii) C.M.P.No.1195 of 2015 in C.C.No.104 of 2011 on 16.09.2015, stand set aside. Petitioner shall stand discharged of all charges. However, it is made clear that, if, in the course of trial, there is reason to suspect the involvement of this petitioner in the wrong doing alleged, it will always be open to the Court below to proceed under Section 319 Cr.P.C. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gm

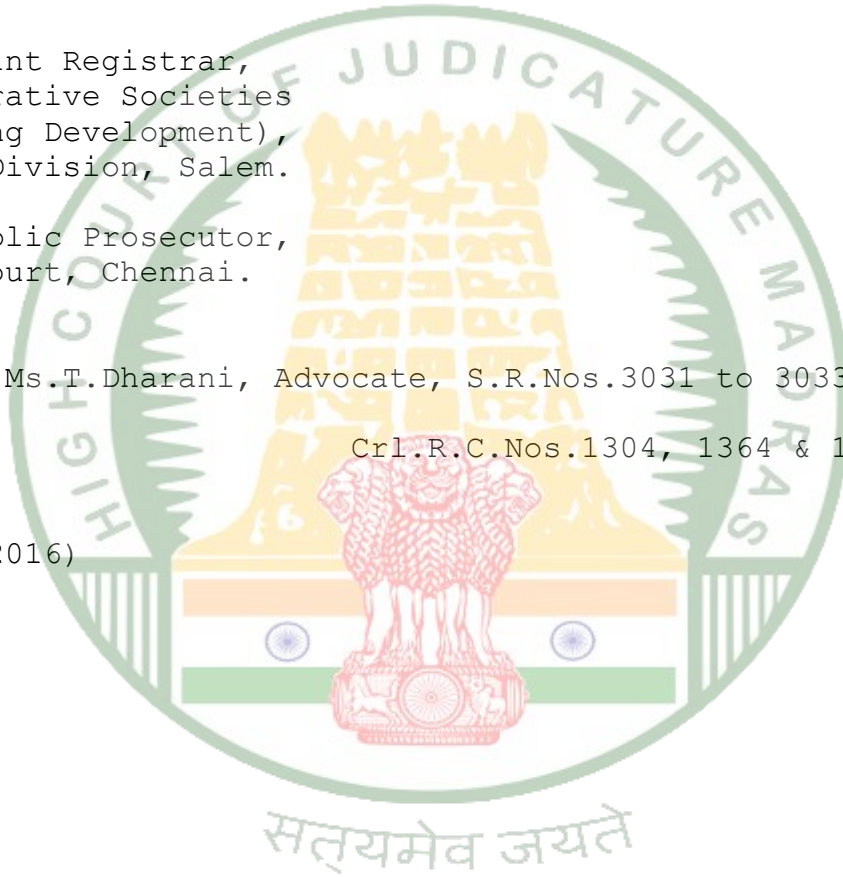
To

1. The Judicial Magistrate III,
Salem.
2. Through The Chief Judicial Magistrate,
Salem.
3. The Deputy Superintendent of Police,
CCIW-CID,
Salem.
4. The Joint Registrar,
Co-operative Societies
(Housing Development),
Salem Division, Salem.
5. The Public Prosecutor,
High Court, Chennai.

+3cc's to Ms.T.Dharani, Advocate, S.R.Nos.3031 to 3033

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VGI (CO)
CA(22/03/2016)



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