

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.14243 of 2016
and Crl.M.P.Nos.7222 and 7223 of 2016

1.Vetrithingal
2.C.Sankaran

.. Petitioners

Vs

State by

The Inspector of Police
Economics Offence Wing (CID)
Thiruvarur Branch
Thiruvarur District
Crime No.2/03

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed in Crl.R.C.No.15 of 2014 on the file of Principal District and Sessions Judge, Thiruvarur, confirming the order passed in Crl.M.P.No.5009 of 2012 in C.C.No.143 of 2012 on the file of the Judicial Magistrate, Thiruthuraipoondi dated 09.06.2014 by allowing this criminal original petition.

For Petitioners : Mr.R.Marudhachalamurthy

For respondent : Mr.C.Emalias
Addl.Public Prosecutor

O R D E R

This petition has been filed to set aside the order passed in Crl.R.C.No.15 of 2014 on the file of Principal District and Sessions Judge, Thiruvarur, confirming the order passed in Crl.M.P.No.5009 of 2012 in C.C.No.143 of 2012 on the file of the Judicial Magistrate, Thiruthuraipoondi dated 09.06.2014 by allowing this criminal original petition.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. When these petitioners were working in Thiruvarur Consumer Co-operative Wholesale Stores, based on an enquiry conducted u/s 81 of the Tamil Nadu Co-operative Societies Act, 1983, an FIR came to be registered against them in Cr.No.2/2003. After completing the investigation, the respondent police appear to have filed an "action dropped" report on 28.02.2006. Thereafter, a charge sheet has been

filed against the petitioners and others for offences u/s 408, 467, 468, 471 IPC r/w 477(A), 204 IPC r/w 120-B r/w 34 IPC, which has been taken on file as C.C.No.143/2012 by the Judicial Magistrate, Thiruthuraipoondi. In the Final Report, the petitioners have been arrayed as A2 and A3. After receipt of the papers u/s 207 Cr.P.C., the petitioners filed Crl.M.P.No.5009/2012 in C.C.No.143/2012 u/s 239 Cr.P.C. for discharge, which was dismissed by the Judicial Magistrate, Thiruthuraipoondi on 09.06.2014, aggrieved by which the petitioners filed Crl.R.P.No.15/2014, which was also dismissed by the Principal District and Sessions Judge, Thiruvavarur on 15.12.2015, by holding that there are prima facie materials against the petitioners for the charges to be framed. Aggrieved by the order passed by the Courts below, the petitioners are before this Court for quashing the same.

4. Under Section 397(3) Cr.P.C., when once a person elects to move the Sessions Court, he is precluded from filing second revision before this Court. However, a petition u/s 482 Cr.P.C. is maintainable, where it is shown that the orders passed by the Courts below suffer from serious illegality, resulting in grave prejudice to a party. In this case, both the Courts below have found on facts that there are prima facie materials for the charges to be framed. Hence, this Court cannot re-examine the same under Section 482 Cr.P.C.

5. Learned counsel for the petitioners submitted that enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act itself has been conducted beyond the period fixed under Section 81(4) of the Act and therefore, the prosecution predicated on such an enquiry would stand vitiated.

In the considered opinion of this Court, a crime cannot stand effaced just because parallel proceedings under the statute have been delayed. If this proposition is accepted, every accused can delay the proceedings under the Act and claim immunity from prosecution with impunity. Hence, this Court finds no merit in this petition. Accordingly, this petition is dismissed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police
Economics Offence Wing (CID)
Thiruvavarur Branch,Thiruvavarur District.

2. Principal District and Sessions Judge, Thiruvavarur.

3. Judicial Magistrate, Thiruthuraipoondi.

4.-do- Through The Chief Judicial Magistrate, Tiruvavarur.

5. The Public Prosecutor,High Court, Madras.

+ 1 cc to Mr.R. Marudhachalamurthy, Advocate Sr.38590

CrI.OP No.14243 of 2016

SKV(CO)
EU 5.08.2016



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