

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.439 of 2010

&

M.P.No.1 of 2010

Viswanathan

.. Petitioner/Accused No.3

vs.

State represented by
Inspector of Police,
C.C.I.W/C.I.D. Tiruvannamalai P.S
Tiruvannamalai

..respondent/Complainant

Prayer: Criminal Revision filed under section 397 and 401 Cr.P.C. against the judgment of learned Judicial Magistrate II, Vellore, passed in Crl.M.P.No.1516 of 2009 in C.C.No.3 of 2004, passed on 04.03.2010.

For Petitioner : Mr.P.Mani

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

O R D E R

This revision arises against the judgment of learned Judicial Magistrate II, Vellore, passed in Crl.M.P.No.1516 of 2009 in C.C.No.3 of 2004, on 04.03.2010.

2. The case of the prosecution is that the petitioner worked as Vice President in Kilkodungalur Handloom Co-operative Society during the period 1996 to 2001. The allegation is that petitioner/A3 along with other accused caused deficit in yarn of value Rs.14,22,371.30, misappropriated a sum of Rs.1,99,201.60/- and Rs.4,00,000/- allotted to the members under Welfare scheme and thereby committed offences under Section 409 r/w 109 IPC. Case was registered against the petitioner and others and on completion of investigation and filing of charge sheet, were to be tried as separate Calendar Year Cases. Petitioner filed C.M.P.No.1516 of 2009 in C.C.No.3 of 2004 seeking discharge, which came to be dismissed under orders dated

04.03.2010. Hence, this revision.

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

4. Learned counsel for petitioner submits that in the enquiry under Section 81 of Tamil Nadu Co-operative Societies Act the first accused in the case had admitted to being entirely responsible for misappropriation of yarns to the tune of Rs.14,00,000/-. Therein, the petitioner and others were only informed of having been negligent in their functions. Surcharge proceedings u/s.87 were initiated only against the first accused. The charge sheet filed in the case in C.C.No.3 of 2004 informs the amount of misappropriation as Rs.14,22,371.30/-. Under orders of the Fast Track Judge, Vellore, passed in C.R.P.No.30 of 2007, the first accused stands discharged. In such circumstances, this petitioner would also be entitled to discharge.

5. This Court would dismiss this revision, since this Court finds that the petition for discharge has been moved after the completion of examination of P.Ws.1 to 4 and when examination of P.W.5 was underway. The petition seeking discharge had been moved three years after framing of charges. This Court is unable to appreciate the submission of learned counsel for petitioner that this petitioner/A3 had filed the petition seeking discharge after the first accused in the case was discharged. Such a wait and watch approach cannot be appreciated. The present revision have resulted in a delay of five years in the progress in the case before the trial court. In the circumstances, there shall be a direction to the trial court to dispose of the case as expeditiously as possible, preferably, within a period of four months from the date of receipt of this order. Any observations made herein above are only for the purpose of disposal of this revision and shall have no bearing on the merits of the case before the trial court. It would be open to the petitioner to raise all contentions before the trial court.

6. This Criminal Revision shall stand dismissed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To:

1.The Judicial Magistrate II, Vellore

2.The Chief Judicial Magistrate, (for Information),
Vellore.

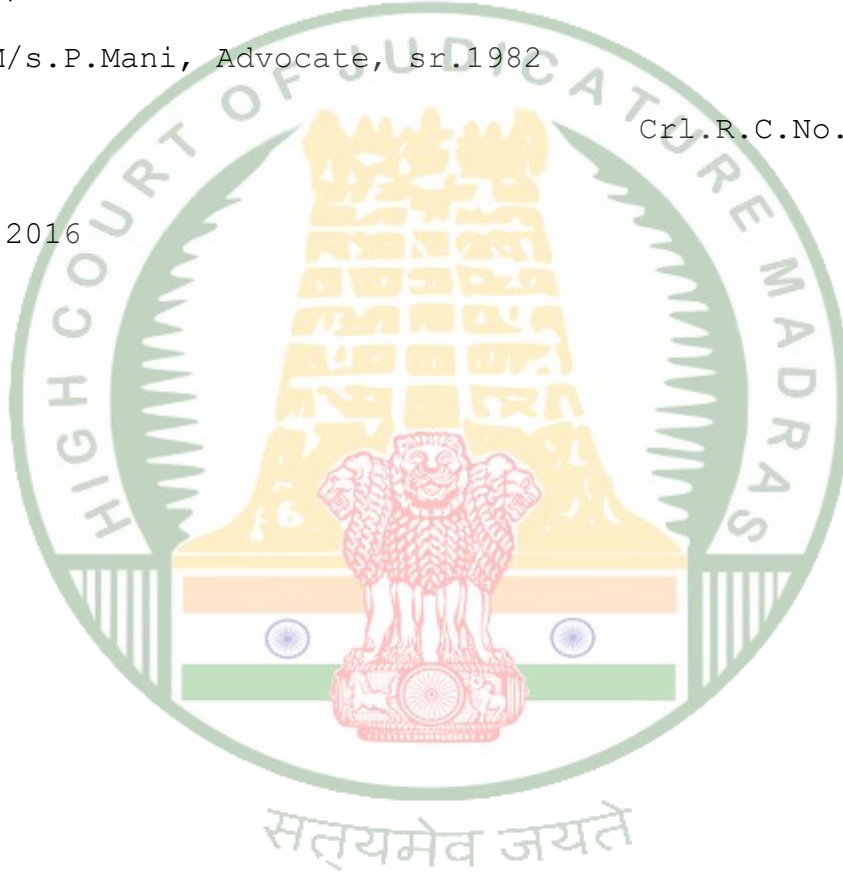
3.The Inspector of Police,
C.C.I.W/C.I.D. Tiruvannamalai P.S
Tiruvannamalai

4.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.P.Mani, Advocate, sr.1982

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