

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1087 of 2016

and

Crl.M.P.No.9404 of 2016

M.Radhakrishnan

.. Petitioner/Accused

vs.

State represented by

The Sub Inspector of Police,

District Crime Branch,

Vellore.

(Crime No.77 of 2008)

.. Respondent/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate No.II, Vellore, Vellore District dated 17.08.2016 in Crl.M.P.No.373 of 2013 in C.C.No.108 of 2012 and to set aside the same.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.K.Madhan

Government Advocate (Crl. Side)

O R D E R

This revision challenges the order of learned Judicial Magistrate No.II, Vellore passed in Crl.M.P.No.373 of 2013 in C.C.108 of 2012 dated 17.08.2016.

2. In C.C.No.108 of 2012, petitioner and two others are charged of offence under section 409 IPC in that sums received in grant towards disbursal to Adhi Dravidar students were disbursed delayedly after 27 days and such act amounts to temporary misappropriation. Petitioner has sought discharge in Crl.M.P.No.373 of 2013 and on dismissal of such petition, present revision is preferred.

3. Heard Mr.E.Kannadasan, learned counsel for petitioner and learned Government Advocate (Crl. Side) for respondent.

4. Learned Government Advocate on instructions submits that the cheque amount of Rs.2,47,080/- was credited to the account of Principal of the College and there from, the sum was disbursed to 70 eligible students. A perusal of the records reveals that L.W.1, District Collector was cited as a witness to speak to his having issued cheques in the name of petitioner/Principal/first accused towards payment of 70 Adhi Dravidar students, the six cheques so issued were handed over to accused 2 and 3 and monies were not immediately disbursed to the students, leading to his preferring the complaint. In answer to the specific query of this court, learned Government Advocate on instructions submits that upon realisation of the cheques the sums were credited to the account of petitioner, the cheque having been drawn in his name. Monies had not been used for personal purposes of the accused and the same admittedly had been merely lying in his account for a period of 27 days pending disbursal to students. In circumstance where the cheque was drawn in his name, fact of monies merely lying in petitioner's account cannot by any stretch of imagination be considered criminal misappropriation.

5. In the circumstances, this Criminal Revision Petition stands allowed and proceedings in C.C.No.108 of 2012 is quashed. The benefit of this order shall flow also to the other accused.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vrc
To

- 1.The Judicial Magistrate No.II,
Vellore,
Vellore District.
 - 2.-do- thro the Chief Judicial Magistrate,
Vellore.
 - 3.The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.E. Kannadasan, Advocate Sr. 68857

Cr1.R.C.No. 1087 of 2016

MG (CO)
VR(24/03/2017)