

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2016

CORAM:

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

Crl.R.C.Nos.1285 and 1286 of 2016
and
Crl.M.P.Nos.13072 and 13073 of 2016

K.A.Manoharan
S/o.Appavoo Pillai .. Petitioner in both revisions
petitions/ 2nd Accused/ Accused No.2

vs.

State represented by
The Inspector of Police,
C.C.I.W. CID Wing,
Krishnagiri Unit,
Krishnagiri District.

Crime No.9 of 2013 .. Respondent in both revisions/
Petitioner/ Respondent/ Complainant

Criminal Revisions filed under Section 397 and 401 Cr.P.C.
against the orders of learned Additional Sessions Judge,
Krishnagiri, passed in C.R.C.Nos.10 and 12 of 2015 on 26.02.2016
reversing the orders of learned Judicial Magistrate II, Hosur,
passed in Crl.M.P.No.4744 of 2013 in C.C.No.361 of 2007 and
Crl.M.P.No.4746 of 2013 in C.C.No.362 of 2007 on 15.07.2015.

For Petitioner : Mr.S.Kaithaimalai Kumaran

For Respondent : Mr.M.Mohammed Riyaz
Government Advocate [Crl.side]

COMMON ORDER

Petitioner challenges the orders of learned Additional
Sessions Judge, Krishnagiri, passed in C.R.C.Nos.10 and 12 of
2015 on 26.02.2016 reversing the orders of learned Judicial
Magistrate II, Hosur, passed in Crl.M.P.No.4744 of 2013 in
C.C.No.361 of 2007 and Crl.M.P.No.4746 of 2013 in C.C.No.362 of
2007 on 15.07.2015.

2. Petitioner is arrayed as an accused in Crime No.9 of
2003 on the file of respondent registered for offences u/s.406,
120(b) and 109 IPC. The accusation against the petitioner is

that, he, while functioning as a President in the Hosur Co-operative House Building Society, has misappropriated sums to the tune of Rs.18,00,000/-. Petitioner/A2 moved CrI.M.P.Nos.4744 and 4746 of 2013 u/s.245(2) Cr.P.C. on the file of Judicial Magistrate II, Hosur, seeking discharge. Court below, under orders dated 15.07.2015 allowed such petitions. Challenging such orders, respondent State has moved C.R.C.Nos.10 and 12 of 2015 on the file of learned Additional Sessions Judge, Krishnagiri, which came to be allowed under orders dated 26.02.2016. There against, the present revisions have been filed.

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

4. In allowing the petitions filed by the respondent State, the Court below has reasoned that at the stage of framing of charges, the genuineness of an Enquiry Report filed u/s.81 of the Co-operative Societies Act cannot be challenged. Further, at the stage of framing of charges, the Court is not concerned with the truth or otherwise of the evidence, it has only to satisfy itself that a prima facie case stands made out. In the instant case, a prima facie case does exist. More over, the report u/s.81 of the Co-operative Societies Act is only a preliminary one and it is not conclusive. On the above reasoning, the Court below rejected the plea of the petitioner with regard to enquiry report and launching of prosecution case. This Court finds no reason to interfere with the orders under challenge.

The Criminal Revision Cases are dismissed. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1.The Additional Sessions Judge,
Krishnagiri.

2.The Judicial Magistrate II,
Hosur.

3.The Inspector of Police,
C.C.I.W. CID Wing,
Krishnagiri Unit,
Krishnagiri District.

4.The Public Prosecutor,
High Court, Madras.

+2 cc's to Mr.S.Kaithamalai Kumaran,advocate,sr.71908, 908.

sr(co)
krd 9/1

Cr1.R.C.Nos.1285 and 1286 of 2016



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