

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.26903 of 2015

and

M.P.No.1 of 2015

T.K.Krishnamoorthy ... Petitioner/Petitioner

Vs

The Inspector of Police,
CCIW CID, Salem,
Salem - 16.

... Respondent/Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to set-aside the order dated 28.09.2015 in unnumbered CMP in C.C.No.44 of 2009 on the file of the Judicial Magistrate No.III, Salem to entertain the above application.

For Petitioner : Mr.R.Nalliyappan

For respondent : Mr.C.Emalias,
Additional Public Prosecutor.

O R D E R

The present Criminal Original Petition has been filed seeking a direction to set-aside the order dated 28.09.2015 in unnumbered CMP in C.C.No.44 of 2009 on the file of the Judicial Magistrate No.III, Salem to entertain the above application.

2. While the petitioner was working as Assistant Secretary in Dr.Ambedkar Salem City Co-operative House Building society, one Subramaniam, who was working as secretary, had misappropriated a sum of Rs.1,81,723/-. Hence, a departmental proceeding was initiated under Section 81 of Co-operative Society Act and upon enquiry, the same was concluded and charges levelled against the said Subramaniam was proved. Based on the recommendation of the enquiry officer, criminal case was

registered as against him and after completing the investigation, final report has been filed including the name of the petitioner as 2nd accused before the learned Judicial Magistrate No.III, Salem, and the same was taken on file as C.C.No.44 of 2009. The other employees, namely, R.Dhanalakshmi, V.Vasudevan, K.Suresh Kumar, Senthil Velavan, K.Subramanian and T.Ravichandran, were enquired along with the petitioner under Section 81 of Tamil Nadu Co-operative Societies Act. But, they were shown as witnesses in the case and the petitioner alone is shown as an accused. Hence, the petitioner made an application under Section 319 Cr.P.C before the Judicial Magistrate No.III, Salem to implead those persons as accused and the same was rejected. Hence, he has come forward with the present petition.

3. I have heard the learned Additional Public Prosecutor and the learned counsel for the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner is an accused. Hence, he has no locus standi to file a petition to implead the other persons as an accused. Thus, he opposed for giving direction.

5. As contended by the learned Additional Public Prosecutor, the petitioner has no locus standi to file such application. Therefore, I do not find any infirmity in the order made by the learned Judicial Magistrate No.III, Salem stating that the application is not maintainable. Hence, I do not find any merit in this petition and the petition is liable to be dismissed.

5. The Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mrp

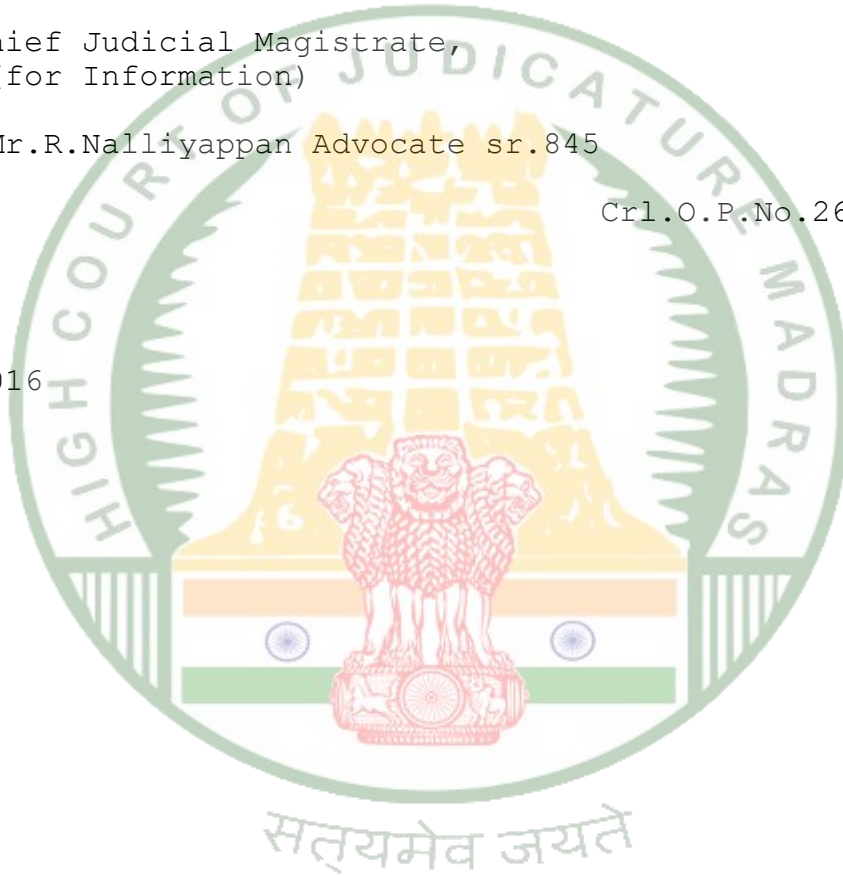
To

1. The Inspector of Police,
CCIW CID, Salem,
Salem - 16.
2. The Judicial Magistrate No.III,
Salem.
3. The Public Prosecutor,
High Court, Madras.
4. The Chief Judicial Magistrate,
Salem(for Information)

+1 cc to Mr.R.Nalliyappan Advocate sr.845

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