

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.No.15742 of 2009

And

M.P.Nos.1 and 2 of 2009

1.P.Jayakannan
Assistant General Manager,
Namakkal District
NABARD, Namakkal-637 001

2.K.V.Raghavalu
Chief General Manager,
NABARD Chennai-34 ... Petitioners/Accused 1 & 2

Vs.

R.Yogaraja ... Respondent/Complainant

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in C.C.No.14/2009 on the file of the Judicial Magistrate No.II, Namakkal and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.K.Sukumaran
For Respondent : No appearance

ORDER

The petitioners who are alleged to be the accused in C.C.No.14 of 2009 have come forward with this petition seeking to call for the records in C.C.No.14 of 2009 on the file of the learned Judicial Magistrate No.II, Namakkal and quash the same insofar as the petitioners are concerned.

2.The learned counsel for the petitioners submitted that the first petitioner is the Assistant General Manager, NABARD, Namakkal District and second petitioner is the Chief General Manager, NABARD and the respondent herein has given application

to the petitioners and sought for some documents under Sections 74 and 76 of the Indian Evidence Act and since the documents have not been granted, the respondent preferred a private complaint against the petitioners under Section 166 of I.P.C. He would further submit that as per Section 51 of the National Bank for Agriculture and Rural Development Act, the petitioners are not supposed to divulge information to anybody.

3.The learned counsel for the petitioners further submitted that the ingredients of Section 166 of I.P.C. has not been made out and hence, he prayed for quashing of C.C.No.14 of 2009.

4.Though notice was served on the respondent, he has not chosen to enter appearance. Even today, though the matter was posted under the caption 'for orders' no one represented the respondent.

5.The petitioners are public servants. The first petitioner is working as the Assistant General Manager, NABARD, Namakkal District and second petitioner is working as the Chief General Manager, NABARD. So they are governed by the National Bank for Agriculture and Rural Development Act.

6.It is appropriate to extract the relevant portion of Section 51 of the National Bank for Agriculture and Rural Development Act which reads as follows:

"51.(1)The National Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the National Bank to divulge such information."

7.It is also appropriate to extract the relevant portion of Section 166 of I.P.C. which reads as follows:

"S.166.Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both."

On a perusal of the private complaint, the ingredients of the provision under Section 166 of I.P.C. has not been made out.

8.The respondent has sent communication on 14.10.2008 claiming documents, since it is a public document, as per Section 51 of the National Bank for Agriculture and Rural Development Act, the petitioners are not supposed to furnish the particulars to third parties. Furthermore, the ingredients of the provision under Section 166 of I.P.C. has not been made out. In such circumstances, this Court feels that it is a fit case for quashing of the proceedings in of C.C.No.14 of 2009.

9.Accordingly, this Criminal Original Petition is ordered and the proceedings in C.C.No.14 of 2009 on the file of the learned Judicial Magistrate No.II, Namakkal is quashed. Consequently, the connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Namakkal

2.The Chief Judicial Magistrate
Namakkal

+1 cc to Mr.K.Sukumaran Advocate sr.13846

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