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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Crl.O.P.(MD) No.16336 of 2016

and

CMP(MD)No.7979 of 2016

N.Baskaran

: Petitioners/3rd Accused

-Vs-

1.The State Rep. By
Inspector of Police,
CCIWCID, Trichy.

2.The Deputy Registrar of Co-operative Societies,
Multi Storage Building,
Kaja Maligai, Trichy. : Respondents

Prayer: Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.124 of 2013 on the file of the Judicial Magistrate No.III, Trichy and quash the consequential proceedings against the petitioner and pass such further orders.

For Petitioner

: Mr.G.Murugan

For Respondents

: Mr.K.Anbarasan

Govt. Advocate (Crl.Side)

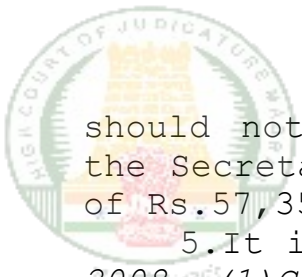
O R D E R

This petition is filed to call for the records in C.C.No.124 of 2013 on the file of the Judicial Magistrate No.III, Trichy and quash the same against the petitioner.

2.Heard learned counsel appearing for the petitioner and learned Government Advocate (Criminal side) appearing for the respondents and perused the materials available on record.

3.The case of the prosecution is that the petitioner, who was working as Special Officer in the 2nd respondent Cooperative Society, was also holding additional charge in R.1564 Sree Renganatha Swami Vagayara Devasthanam Workers Co-operative Society, Trichy. The Secretary of the said Society has committed misappropriation, while the petitioner herein, who was working as Special Officer of the Society failed to supervise the day today administration and gave sanctions without verifying the records.

4.The learned counsel for the petitioner would submit that originally, the case was filed against 7 accused, but final report against three accused and one Vijayakumar, the Special Officer, who was working at the relevant period, has been exonerated. The petitioner, who was holding Additional charge



should not be held liable for the misappropriation committed by the Secretary of the society and the entire misappropriated amount of Rs.57,350/- has already been paid.

5.It is further submitted that in similar facts, this court in 2008 ^{சாதி} (1) Crimes 681 (Mad.) [S.Gunasekaran Vs. State rep. By Inspector of Police], quashed the charge laid against the Special Officer categorically stating that criminal prosecution cannot be initiated for lapse/negligence in supervisory work, which is extracted below:-

"8.The learned Government Advocate (Crl. Side) would submit that as per a resolution passed in the society the petitioner was responsible for the day-to-day affairs of the society and to supervise the records and the transactions of the society. The learned Government Advocate (Crl. Side) would further submit that as per the materials available on record it is clear that he has failed to discharge his duties properly and the said acts of the accused would amount to offences as enumerated in the charge-sheet.

9.In my considered opinion, such a negligence may create only a civil liability and there cannot be any vicarious liability in the criminal law. Even to initiate proceedings against the petitioner under Section 87 of the Tamil Nadu Co-operative Societies Act, the sine quo non is wilful negligence resulting in loss to the society and not a mere negligence. When that be so, a mere negligence to look into the records properly, in my considered opinion, would not satisfy any of the ingredient of the offences alleged against him."

6.I am of the opinion that the judgment cited supra squarely applies to the case on hand. In such view of the matter, this petition is allowed and the entire proceedings in C.C.No.124 of 2013 on the file of the Judicial Magistrate No.III, Trichy, is quashed as against the petitioner alone. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar



To,

1. The Judicial Magistrate No.III,
Trichy

2.The Inspector of Police,
CCIWCID, Trichy.

3.The Deputy Registrar of Co-operative Societies,
Multi Storage Building,
Kaja Maligai,Trichy.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.R.Saravanan, Advocate, SR.No.60184

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RL/6C/3P/KM/23.11.2016

Cr1.O.P.(MD) No.16336 of 2016

6.10.2016