



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2016

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.6116 of 2016

V.Karuppusamy

... Petitioner

-vs-

1. State rep. by
The Inspector of Police,
CCIWCID
Theni District

2. G.Nirmala

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in Crime No.03/2015 dated 09.04.2015 pending on the file of the 1st respondent and quash the same in respect of petitioner/accused No.2.

For Petitioner : Mr.R.Santhanam

For Respondent : Mr.A.P.Balasubramani for R1
Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed to quash the case in Crime No.3/2015 dated 09.04.2015 pending on the file of the 1st respondent.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side), for the first respondent.

3. It is seen that the petitioner was working as a Cashier in the Madurai District Central Cooperative Bank, Allinagaram Branch, Theni District, in which, a total sum of Rs.15,66,871/- appears to have been misappropriated under various heads. The proceedings under the Cooperative Societies Act were initiated and on the report of the Deputy Registrar of Cooperative Societies, the respondent police have registered an FIR in Crime No.03/2015 on 09.04.2015 for offences under Sections 408, 468, 471, 477(A) 17/10/2016 against four named persons and 14 others.



4. The learned counsel for the petitioner contended that in the departmental proceedings, the petitioner was not indicted and even in the surcharge proceedings, he was not named. The learned counsel further submitted that the petitioner was working as a Cashier under Mathavan (A1) and he had acted only on the instructions of the Superior officers.

5. On a careful reading of the FIR, it is alleged that this petitioner being the Cashier was aware of the misappropriation and he did not take any action to either prevent or report the same to the superior authorities. The FIR is not an Encyclopedia of the prosecution case. Just because, the petitioner was not indicted in the departmental proceedings, it cannot be stated that he should be absolved of criminal liability. In State of Haryana and others vs. Bhajan Lal and others reported in 1992 Supp (1) SCC 335, the Supreme Court laid down the parameters for quashing the FIR. In this case, there are prima facie materials for the investigation to proceed under Chapter XII of the Code of Criminal Procedure. That apart, the petitioner was admittedly a Cashier in the Madurai District Central Cooperative Bank and therefore, he cannot feign ignorance. Under such circumstances, the case of the petitioner does not pass muster the law laid down by the Supreme Court in Bhajan Lal's case.

6. In view of the above, the criminal original petition is dismissed and the respondent police is directed to expeditiously conduct the investigation in accordance with law. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Inspector of Police, CCIWCID, Theni District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Santhanam, Advocate, Sr.No.20806

RR

JM/JGB-DP/05.05.2016/2P-4C