

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.06.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.O.P.No.838 of 2013

and

M.P.Nos.1 and 3 of 2013

Abdul Rasheed,
S/o.Mohammed Sultan

...Petitioner/Accused

Vs

A.K.Habeeb Rahman

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No. 394 of 2011 on the file of learned Judicial Magistrate V, Coimbatore and quash the same.

For Petitioner : Mr. P.M.Duraiswamy

For Respondent : Mr. N.Manokaran

O R D E R

Petitioner seeks quash of proceedings in C.C.No.394/2011 on the file of learned Judicial Magistrate V, Coimbatore.

2. Heard learned counsel for petitioner and learned counsel for respondent.

3. The Vice-President of Coimbatore Athar Jamath has preferred a complaint which amounts to no more than this: that monies deposited into the account of the Jamath are in very small sums, the income of the Jamath through rents and hundi collection is huge and therefore, the petitioner, who is the Secretary of the Jamath, has committed offences u/s.403,408 and 420 I.P.C. The sworn statement of complainant/respondent does not carry forward the

prosecution case, any further.

4. Learned counsel for respondent submits that on a complaint being preferred before the police, such authority had reported the matter to be in the nature of a civil dispute.

5. Learned counsel for petitioner submits that even as per the scheme decree, as modified by this Court, the Treasurer was the person in charge of funds and who could draw monies towards particular purposes. Petitioner is only the Secretary of the Jamath.

6. This Court is of the view that the complaint is bereft of any particulars regards the wrong doing alleged and a prosecution cannot be sustained on the basis of presumptions of commission of offences. The contention of learned counsel for respondent that in the course of enquiry by the police, petitioner had admitted to collecting monies which he had not deposited to the bank account, would not render the prosecution maintainable. Whatever herein above observed is only for the purpose of disposal of the present petition.

The Criminal Original Petition is allowed. The proceedings in C.C.No.394 of 2011 on the file of learned Judicial Magistrate V, Coimbatore, is quashed. Consequently, connected miscellaneous are closed.

-s/d-
Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

bri/gm
To

The Judicial Magistrate V,
Coimbatore.

+1 CC to M/s. N. Manokaran, Advocate sr 40761

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KJ (CO)
sp/23/6