

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 21.07.2017****CORAM :****THE HONOURABLE MR.JUSTICE C.T. SELVAM****Crl.R.C.No.974 of 2010**

State rep.by
The Deputy Superintendent of Police,
CB CID, Five Roads,
Salem.
(Crime No.1/2005). ... Appellant

-Vs-

C.Jothi Jayakumar
S/o.Chellamuthu. ... Respondent

The Criminal Revision Petition is filed under Section 397 Cr.P.C read with 401 Cr.P.C., praying to allow the Criminal Revision Case and set aside the order of allowing the Revision Petition, passed in C.R.P.No.53/2007 dated 07.01.2008 on the file of Additional District and Sessions Judge, Fast Track Court-II, Salem, and the convict the respondent/accused for the offences framed against him.

For Petitioner : Mr.V. Arul,
Additional Public Prosecutor
For Respondent : Mr.N.R.Elango
Senior counsel.

ORDER

The respondent was charged of offences under Sections 409, 468, 471 and 477(A) IPC. He moved a discharge petition in

C.M.P.No.5461 of 2006 before learned Judicial Magistrate-II, Salem, and the same was dismissed on 27.09.2007. There against the respondent preferred Criminal Revision Petition No.53 of 2007, which was allowed by learned Additional District and Sessions Judge, FTC-II, Salem. Aggrieved by the same, State has preferred this Criminal Revision Case.

2. Heard learned Additional Public Prosecutor and learned Senior Counsel appearing on behalf of respondent.

3. In allowing the Revision seeking discharge, the Court below has reasoned as follows:-

"1. The Registrar of Societies has not called for this Revision petitioner to give his explanation and he himself has not explained for not conducting enquiry under Section 81 of Tamilnadu co-operatives Act while the matter is related to the year of 1995-96-The prosecution itself has admitted that this accused belongs to Salem women Tailoring Industrial Co-operative societies as secretary.

2. Before filing charge sheet the prosecution has not explained that signature was obtained from the accused that any permission obtained from the concerned Magistrate. As per Section 389 Cr.P.C., which has

contemplated how the signature could be obtained and the specimen signature to be sent for the comparison.

3. After lapse of nearly 10 years of delay to proceed against the accused which will show that the prosecution has not taken any initiative to proceed against this accused. But they have searched for a person to be victimized for the past 10 years and further for the appreciation of the prosecution we could not find out any material to safeguard the prosecution that after lapse of 10 years and that too violating the provisions of Tamilnadu co operative societies Act will amount violation of mandatory provisions.

4. After making it clear that one another person or a set of persons involved in this case has been left out and without their involvement in this case court could not come to a correct conclusion. It is a total violation of adopting the procedures and the prosecution has not taken this aspect into consideration for investigation as well as to find out, who is the real culprit and further another witness shown as list of witness No.20, who has stated in his statement recorded under Section 161 Cr.P.C., that the revision petitioner has acted according to the instructions given by the social welfare minister during the year of 1995-1996 to all the social welfare officers to act upon as per his order. In pursuance of that order, the revision petitioner has acted upon. It is very clear to note that this revision petitioner has been victimized for the

C.T.SELVAM, J.,

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purpose of avoiding several complications arising out of this commission of offence.

4. Finding no reasons to interfere in the order passed by the Court below, this Criminal Revision shall stand dismissed.

21.07.2017

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Index : Yes/No
Internet : Yes/No

To

The Additional District and Sessions Judge,
Fast Track Court-II,
Salem.

*सत्यमेव जयते***WEB COPY****Crl.R.C.No.974 of 2010**