

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.13377 of 2013 and
MP.Nos.1 & 2 of 2013

A.Karunanithi

..Petitioner

Vs.

1. The Deputy Registrar of
Cooperative Societies,
Villupuram Region,
Villupuram District.

2. S.Jayabalan,
The Sub-Registrar/
81 Inquiry Officer,
Kandamangalam Primary Agricultural
Cooperative Society,
Kandamangalam,
Villupuram District.

3. The Inspector of Police,
CCIW CID,
Villupuram District.

..Respondents

PRAYER:

Writ petition is filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents from proceeding further pursuant to the summons issued by the second respondent dated 12.02.2013 including criminal prosecution.

For Petitioner : Mr.P.Ganesan for Mr.N.Suresh

For Respondents : Mrs.T.Girija,
Government Advocate

ORDER:

According to the petitioner, when the petitioner was working as Secretary in Kandamangalam Primary Agricultural Cooperative Society, the second respondent was posted as Special

Officer by the resolution dated 15.07.2012. In order to deal with certain accounts the petitioner along with the Special Officer was given power to sign in loan transactions by the same resolution. While being so, the petitioner was suspended on 28.11.2012 for the alleged irregularities committed in relation to loan transactions and others. For the same, an 81 enquiry was ordered by the first respondent and the second respondent was appointed as enquiry officer. Being the enquiry officer, the second respondent issued a summon dated 12.02.2013 directing the petitioner to appear on 18.02.2013 for enquiry and proposing to recommend for criminal prosecution based upon the 81 enquiry. Aggrieved over the summon, the petitioner has filed this writ petition before this Court.

2. According to the learned counsel for the petitioner, the second respondent had been the special officer during the time when the irregularities alleged to have been committed by the petitioner. Moreover, only after the approval of the second respondent, the loan amounts were disbursed to the members of the society. Further, the Secretary alone could be made liable for any irregularities, as the Secretary do not disburse loans to the members on his own. Particularly, the contention of the petitioner is that the petitioner has been directed to submit explanation, but the summon did not mention a specific period. Therefore, the petitioner is not in a position to submit the explanation to the second respondent. Hence, challenging the summon dated 12.02.2013 issued by the second respondent, the petitioner has filed the writ petition before this Court.

3. The learned Government Advocate would submit, that the first respondent has filed a counter affidavit and in Para 5 of the counter affidavit, the period from the year 2007 to 2011 when the misappropriation had taken place, has been clearly stated. Further, it is only a summon, the petitioner can make his explanation to the first respondent.

4. From the counter affidavit filed by the counter affidavit, it is seen that the specific period in relation to the alleged misappropriation has not been mentioned in the summon. Only in the counter affidavit, the first respondent has stated the same. Therefore, the summon issued by the first respondent is liable to be quashed.

5. Accordingly, the writ petition is allowed and the summon dated 12.02.2013 issued by the second respondent is quashed. However, liberty is granted to the respondent to issue a summon afresh clearly stating the period and proceed in accordance with law. The learned counsel for the petitioner also undertakes that the pendency of the writ petition will not have any right of the petitioner to claim laches for issuing

fresh summons. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

lok

To

1. The Deputy Registrar of Cooperative Societies, Villupuram Region, Villupuram District.
2. The Sub-Registrar/ 81 Inquiry Officer, Kandamangalam Primary Agricultural Cooperative Society, Kandamangalam, Villupuram District.
3. The Inspector of Police, CCIW CID, Villupuram District.

+ 1 cc to M/s.W.Camyles Gandhi, Advocate, SR.52980
+ 1 cc to The Govt.Pleader, SR.53508

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EV(CO)
NR 31/08/2017

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