IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

CORAM
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Crl.O.P Nos.25055 & 25476 of 2010
and
M.P.Nos.1, 1, 2 & 2 of 2010

P.Boovaragavan ..Petitioner/Accused No2.
in both the Crl.OPs

Vs.

State Rep. by

The Sub-Inspector of Police,

C.C.I.W.

Cuddalore. .. Respondent/Complainant

in both the Crl.OPs

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records pertaining to C.C.Nos.263 and 264 of 2008 pending on the file of the Judicial Magistrate, Neyveli and quash the same.

(In both the Crl.OPs)
For Petitioner : Mr.Rajendiran
for M/s.M.Ramdoss

For Respondent : Mr.B.Ramesh Babu
Government Advocate (Crl. Side)

COMMON JUDGMENT

The present Criminal Original Petitions have been filed by the petitioner/A4 seeking to quash the charge sheet in C.C.Nos.263 of 2008 and 264 of 2008 pending on the file of the learned Judicial Magistrate, Neyveli. It is brought to notice of this Court that the above said C.C.Nos.263 and 264 of 2008 on the file of the learned Judicial Magistrate, Neyveli has been transferred and re-numbered into C.C.Nos.184 and 185 of 2012 on the file of learned Judicial Magistrate No.II, Panruti.

2.The prosecution of the case is that Thiru.S.Chandrasekaran, Deputy Registrar of Co-operative Society, Virudhachalam Range, Cuddalore District has stated that 1.N.Selvaraj (A1) the then Secretary of Uyyakondaraavi Co-operative Society; 2.Sadhasivam (A2) the then Assistant Secretary of Uyyakondaraavi Co-operative Society; 3.Boovaragavan (A3) the petitioner herein the then Clerk of Uyyakondaraavi Co-operative Society. 4.Chakkravarthy (A4) the then Junior Clerk of Uyyakondaraavi Co-operative Society were misappropriated the society fund a sum of Rs.2,89,362.75/- by fabrication of account i.e., savings account, empty jute bags and agricultural loan and further alleged that all the four accused submitted the forged record before Ravindran (A5) the then Circle Supervisor of the Uyyakondaraavi Co-operative Society has sanctioned the loan without verifying the relevant records. On the basis of the complaint, the respondent has registered the F.I.R. in Crime No.3 of 2007 under sections 408, 477A of IPC and later the charge sheet was filed in C.C.Nos.263 of 2008 and 264 of 2008 on the file of learned Judicial Magistrate, Neyveli. It is further alleged (A1 & A4) created a Bogus loan and swindled amount of Rs.47,000/- from Co-operative Society.

3.The learned counsel for the petitioner has submitted that the petitioner employed as a cashier in the Co-operative Bank and A1 was working as a Secretary of the bank along with two other clerk (A2, A3) have misappropriated considerable amount of the bank, but however the petitioner was only a cashier and all the power was vested with A1 and he was the custodian of the bank property. So, as a capacity of a cashier the position only pay the amount to the person who shown the token and produce the same before the petitioner in which he distributed the amount. Further, the learned counsel for the petitioner has submitted that the verification of the name and signature, all done by the (A1). The learned counsel for the petitioner has submitted that the Assistant Registrar of Co-operative Society lacks sanctity since the complaint could have been lodged within 6 years of completion of enquiry contemplated under section 87(1) of Co-operative Society Act.

4.The learned Government Advocate (Criminal Side) for the respondent submitted that the petitioner along with the other accused created forged signature and thereby prepared bogus loan and swindled amount of Rs.1,06,000/- and therefore, all the accused committed a criminal breach of trust and falsification of an account and caused a huge loss to the Co-operative Society and seeking dismissal of both the Criminal Original Petitions.

5.It is seen that the petitioner employed as a cashier of the Co-operative Society and it is the duty of cashier to deliver the cash whoever present the document before him. If at all any verification subject with the document the same could have been done by the Secretary and the Manager level of the office of the Bank. The power to sanction a loan avail only with the Secretary and other Superior office of the Bank have provided in the Co-operative Society Act. It is seen that, I have carefully read and analyzed the charge sheet where there is no definite serious of the allegation against the petitioner what are all the materials and document supported the charge sheet is not against the petitioner and there is no convincing and confirming evidence against the petitioner and further the complaint could have been filed after 6 years of the completion of the enquiry. It is fatal to the prosecution case and the non-explanation of delay in the complaint is also not supported the prosecution case. I have carefully perusal the statement of the witness and other records would show that there is no direct or circumstances materials to establish the guilt against the petitioner. The mere delivery of the cash is not sufficient while attracting the penal provision under section 477A of IPC and morefully Section 408 is also vitiated and the other hand there is no absolute material to seen the petitioner colluded with the other accused to create fabrication of the account. It is brought to the notice of this Court that the C.C.Nos.263 and 264 of 2008 on the file of the learned Judicial Magistrate, Neyveli is transferred and re-numbered into C.C.Nos.184 and 185 of 2012 on the file of learned Judicial Magistrate No.II, Panruti. Hence, it is my consider view that the proceedings against the petitioner for the aforesaid charge is nothing but an abuse of process of law. Hence in view of the above, I hereby quash all the charges against the petitioner (A4) alone in connection with C.C.Nos.263 and 264 of 2008 on the file of the learned Judicial Magistrate, Neyveli, which is transferred and re-numbered into C.C.Nos.184 and 185 of 2012 pending on the file of learned Judicial Magistrate No.II, Panruti. As far as the other accused are concern the trial court is at liberty to proceed the case in accordance with the law.

6.In the result, both the Criminal Original Petitions are allowed and C.C.Nos.263 and 264 of 2008, pending on the file of the learned Judicial Magistrate, Neyveli, are quashed in respect of the petitioners/accused Nos.2 and 4. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

1.The Judicial Magistrate,
Neyveli.

2.The Sub Inspector of Police,
C.C.I.W, Cuddalore.

Crl.O.P Nos.25055 & 25476 of 2010
and
M.P.Nos.1, 1, 2 & 2 of 2010

LN(CO)

RRS(CO)