



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2017

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM**Cr1.O.P. (MD) No.13336 of 2015****and****MP(MD)Nos.1 and 2 of 2015**

S.Muthukumar

: Petitioner/Sole Accused

-vs-

State represented by
The Inspector of Police,
Aranthangi Police Station,
Pudukottai District.
(in Crime No.48 of 2015)

:Respondent/Complainant.

2.Mr.Jegaveera Pandian @ Gunasekaran
Deputy Director of Health Services,
Aranthangi,
Pudukottai District.

: Respondent/Defacto
Complainant

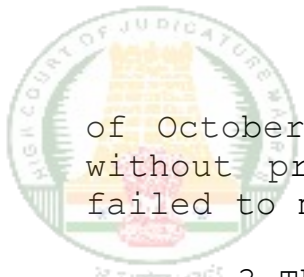
Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C.No.153 of 2015 on the file of the Judicial Magistrate, Aranthangi, for the alleged offences under sections 409 and 420 of IPC, in Crime No.48 of 2015 on the file of the respondent No.1 and quash the same as illegal.

For Petitioner : Mr.N.Ananthapadmanabhan

For Respondent : Mr.A.P.Balasubramani
Government Advocate
(Criminal side)**O R D E R**

This petition has been filed to call for the records pertaining to the charge sheet filed in C.C.No.153 of 2015 on the file of the Judicial Magistrate, Aranthangi, for the alleged offences under sections 409 and 420 of IPC, in Crime No.48 of 2015 on the file of the respondent No.1 and quash the same as illegal.

2.The case of the prosecution is that the petitioner, who is working as Administrative Officer has made theft in the month



of October 2014 and had sold some furniture from the department without prior permission from the competent authority and also failed to maintain the furniture records.

3. The learned counsel appearing for the petitioner would submit that the petitioner is working in the department for the past 34 years without any blemish or remarks and that there was some irregularities has been found at the time of auditing with regard to NRHM scheme by the 2nd respondent and that the petitioner, who is working as Administrative Officer maintaining records, sent several complaints to the authorities with regard to the misappropriation done by the 2nd respondent and due to which, this false complaint has been lodged against the petitioner and that even as per the charge sheet, sections 409 and 420 of IPC will not attract and that section 409 of IPC deals with the punishment of criminal breach of trust by the public servant and that section 420 of IPC deals with the punishment of cheating, but the allegation against the petitioner is that he theft and sold some furnitures without the permission and caused loss to the Government and hence, the sections mentioned in the FIR are not attracted against the petitioner. It is further submitted that the Revenue Divisional Officer has filed a report stating that the allegation made against the petitioner is baseless and the proceedings of the Deputy Director is not correct. Hence, he prayed for quashing the charge sheet in C.C.No.153 of 2015 against the petitioner.

4. Per contra, the learned Government Advocate (Criminal side) would submit that there is no motive for the suspension of the petitioner and that after the theft committed by the petitioner in the month of October 2014, he sent vexatious petitions with regard to misappropriation in NRHM scheme and the disciplinary action taken against the petitioner is no way connected with the criminal action and the stay granted by the writ court is not affected the criminal act against the petitioner and that due the act of the petitioner, there was a huge loss to the Government and hence, he prayed for the dismissal of the petition.

5. Heard both sides and perused the materials available on record.

6. It is seen from the records that based on the complaint given by the Deputy Director of Health Services, Aranthangi, a case in Crime No.48 of 2015 has been registered against the petitioner.

7. It is also seen from the records that statements were recorded from the witnesses and it is revealed that the petitioner ~~has made the sale~~ of some furniture without getting permission from the competent authority and he has also failed to maintain the records and thereby, caused loss the Government.



8.It is further seen from the records that FIR has been registered in Crime No.46 of 2009 against the petitioner and after completing the investigation, charge sheet has been filed in C.C.No.153 of 2015 before the Judicial Magistrate, Aranthangi and the case is pending for disposal before trial court. Whether the petitioner has committed offence as alleged by the prosecution is true or not is the issue to be decided only after full fledged trial and it cannot be decided in this quash petition. Hence, this court is of the considered view that since there are prima facie materials available against the petitioner, the relief sought for by the petitioner cannot be granted at this stage.

9.In the result, this petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar

To,

The Judicial Magistrate,
Aranthangi.

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AE/RR/24.03.2017/3P/2C

Cr1.O.P.(MD) No.13336 of 2015

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