

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 24.11.2017****CORAM :****THE HONOURABLE MR.JUSTICE S.S.SUNDAR****CRL.O.P. (MD) No.13480 of 2017****and****Cr1.M.P. (MD) Nos.9079 and 9080 of 2017**

Naresh Kumar

: Petitioner / Single Accused

-Vs-

1.The Inspector of Police,
District Crime Branch,
Theni.
(Crime No.24 of 2016)

: 1st Respondent / Complainant

2.Soma Sundaram

: 2nd Respondent / De-facto
Complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the Charge Sheet in C.C.No.172 of 2017 on the file of the Judicial Magistrate, Theni and quash the same.

For Petitioner : Mr.V.Kannan

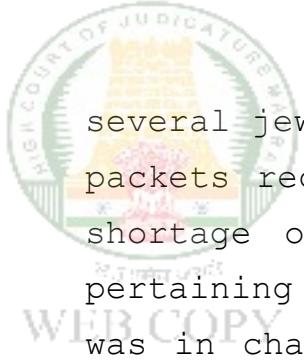
For Respondent 1 : Mr.K.S.Durai Pandian

Additional Public Prosecutor

O R D E R

This petition is filed for quashing the charge sheet in C.C.No.172 of 2017 on the file of the learned Judicial Magistrate, Theni.

2.Originally a case was registered in Crime No.24 of 2016 as against the petitioner and several others on the basis of the complaint lodged by the second respondent for offences under Sections 403, 409 and 420 I.P.C. While the petitioner was working as Bank Manager at Kadamalaigundu Pandian Grama Bank for a period of eight days namely 09.06.2016 to 16.06.2016 on deputation basis,



several jewel loans were advanced. It is found that out of 78 jewel packets received during this period from the customers, there is a shortage of jewels to the tune of 654.970 gramme in 18 packets pertaining to 18 different jewel loan accounts. Since the petitioner was in charge of the bank as Manager during the relevant point of time the petitioner along with others were originally implicated. After holding enquiry and conducting investigation the charge sheet was filed only against the petitioner as sole accused and others were deleted from the charge sheet. Challenging the charge sheet, the petitioner has filed the above Criminal Original Petition.

3. One of the contentions raised by the petitioner is that the petitioner was working as Manager in charge of the bank only for a short period of 6 days and that shortages were actually from 2015 and that therefore, the charge sheet against the petitioner is not sustainable. It is further stated that the investigation was improperly conducted and the Investigation Officer has deleted others who have different role in handling the jewels. It is further stated that the complaint was made with ill-motive and there is no iota of truth in implicating the petitioner as the sole accused in the criminal case.

4. The learned counsel for the petitioner has made several submissions which are contrary to the statements obtained from various witnesses. The petitioner has not demonstrated before this Court any solid circumstances or materials so as to delete the petitioner from the charge sheet. Based on the investigation and collection of materials and statements obtained from various witnesses, others who were also implicated in the complaint as accused were deleted at the time of filing charge sheet for reasons. Absolutely, there is no material that is available to accept the contentions of the petitioner on merits. Merely on the basis of the probabilities this Court cannot quash the proceedings particularly when the charge sheet is based on materials collected during investigation and statements of witnesses. It is to be noted in this case that the petitioner was in charge as Manager of the bank only



for six days. However, from the previous inspection that was conducted in the bank, the jewels were in tact and there was no shortage. During the period when the petitioner was in charge, 78 jewel loans were given and out of 78 jewel packets shortages were found only in 18 jewel packets and the shortage was to the tune of 654.970 gramme.

5. Having regard to the responsibility of the Manager and no one was expected to handle the jewels when the petitioner was in charge of the bank as Manager, the charge sheet cannot be quashed merely on surmises or probabilities. In these circumstances, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

6. Now, the learned counsel for the petitioner seeks indulgence of this Court to dispense with the appearance of the petitioner. The personal appearance of the petitioner is dispensed with unless and until his presence is specifically required by an order of Court.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Theni.
2. The Inspector of Police,
District Crime Branch, Theni.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.V.KANNAN, Advocate SR.No.89924.

CRL.O.P. (MD) No.13480 of 2017
24.11.2017

SRM