



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.7363 of 2017

and

CRL.M.P (MD) No.5035 of 2017

P.Chinnan @ Chinnanan

: Petitioner/Accused No.8

-Vs-

1.The State Rep. by
The Inspector of Police,
CCIW CID,
Dindigul District.
(Crime No.4/2017)

: 1st Respondent/Complainant

2.The Deputy Registrar of
Co-operative Societies,
O/o.The Deputy Registrar of Co-operative Societies,
Dindigul Range,
Plot No.14, Nagappa Nagar,
Collectorate Post, Dindigul-4.
Represented by P.Manikandan

: 2nd Respondents/Defacto
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records relating to Crime No.4 of 2017 on the file of the Respondent Police and quash the same against the petitioner as illegal.

For Petitioner

: Mr.G.Thiruvavutselvan

For Respondents

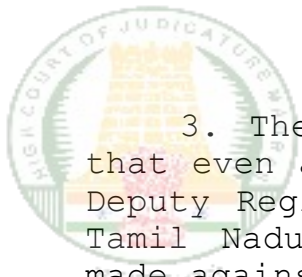
: Mr.K.Anbarasan

Government Advocate (Crl.Side)
for R.1

O R D E R

The Deputy Registrar of Co-operative Societies conducted enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act and submitted a report dated 17.04.2017, based on which, the respondent police have registered a case in Cr.No.4 of 2017 on 09.05.2017, under Sections 406, 409, 471, 477A r/w 34 IPC, against 159 accused, challenging which Chinnan(A.8) is before this Court.

2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.



3. The learned Counsel appearing for the petitioner submitted that even according to the report dated 17.04.2017 submitted by the Deputy Registrar of Co-operative Societies under Section 81 of the Tamil Nadu Co-operative Societies Act, two allegations have been made against Chinnan, namely on 13.08.2008, a loan of Rs.1,20,000/- (Rupees One Lakh Twenty Thousand only), was sanctioned in which Rs.54,821/- (Rupees Fifty Four Thousand Eight Hundred and Twenty One only) has been defalcated; and a loan dated, 26.09.2009 was sanctioned in which Rs.1,11,459/- (Rupees One Lakh Eleven Thousand Four Hundred and Fifty Nine Only) was defalcated.

4. The learned Counsel appearing for the petitioner contended that the first loan that was granted on 13.08.2008 was repaid over a period by one Muniya and in support of this, he produced a copy of the Bank statement.

5. In the opinion of this Court, the genuineness of the Bank statement cannot be looked into in a quash application filed under Section 482 Cr.P.C. That apart, on a reading of the Bank statement, in one place the name is shown as Muniya and in another place the name is shown as Mariya. These discrepancies can be looked into only during investigation. That apart under explanation one to Section 403 I.P.C., even a temporary misappropriation is punishable under Section 403 I.P.C.

6. As regard the second loan, the learned Counsel for the petitioner submitted that Chinnan retired from service on 31.03.2009, but the loan itself was sanctioned subsequently on 26.09.2009.

7. The learned Government Advocate(Crl.Side) submitted that though the loan was sanctioned on 26.09.2009, the records obtained by the police show that the papers were processed even when the petitioner was in service that is prior to 31.03.2009. The learned Government Advocate (Crl.Side) further submitted that a total sum of Rs.1,69,00,000/- (One Crore and Sixty Nine Lakhs only) have been embezzled from the Co-operative Societies and the investigation is in progress.

8. In the light of the above, this Court is of the view that when there are *prima facie* materials for investigation to proceed, it is not a fit case to quash the prosecution at the threshold, especially when the huge public amounts are allegedly embezzled.

9. In view of the above, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar

/True Copy/



To

1.The Inspector of Police,
CCIW CID,
Dindigul District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Thiruvarutselvan Advocate in SR. No.60658

RMK/SSL

JS/SKN.RSK/SAR.2/30.06.2017/3P-4C

CRL.O.P. (MD) No.7363 of 2017
16.06.2017