



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.05.2017

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CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No. 22125 of 2016

and

Crl.M.P. (MD) Nos. 11433 and 11434 of 2016

P.Singaram : Petitioner/Accused No.2

Vs.

1. The Sub-Inspector of Police,
Commercial Crime Investigation Wing/CID,
Tiruchirappalli Unit,
Tiruchirappalli.
(Ref:Crime No.02/2016) : 1st Respondent/Complainant

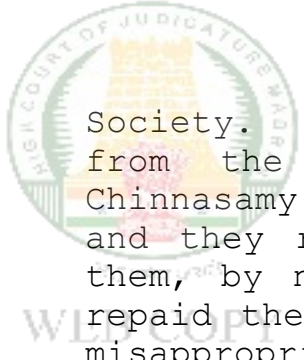
2. Palanieswari,
W/o.Vani Ganesan,
The Deputy Registrar of Cooperative Societies,
Tiruchirappalli Circle,
Tiruchirappalli. : 2nd Respondent/Defacto
complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for records in C.C.No.152/2016 on the file of the Learned Judicial Magistrate No.III, Tiruchirappalli and quash the same and consequential all further proceedings as against the petitioner.

For Petitioner :: Mr.D.Shanmugaraja Sethupathi
For Respondent No.1 :: Mr.K.Anbarasan
Government Advocate (Crl. side)

O R D E R

The petitioner was working as a Special Officer in Tiruchirappalli Palakurichi Primary Agriculture Cooperative Credit Society at the relevant point of time. While so, seven members of the Society, who had obtained cattle loan from the Society on various dates, had returned the amounts with interest by cash to Chinnaasamy (Al), who is said to have temporarily misappropriated the amount without remitting the same in the account of the



Society. Thereafter, when the members received default notices from the Society, they were surprised and they contacted Chinnasamy(A1), who handed over the money to them with interest and they repaid the amount to the Society. However, one among them, by name Periyasamy, had also obtained cattle loan and had repaid the amount by cash to Chinnasamy(A1). Chinnasamy (A1) had misappropriated his amount and when Periyasamy received default notice, he approached Chinnasamy(A1) and the petitioner. Later Periyasamy was informed that the amount has been credited to his account. Admittedly, in the enquiry conducted under Section 81 of the Tamil Nadu Cooperative Societies Act, there are no allegations against the petitioner.

2. Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner submitted that all the six persons, who had obtained loan, have categorically stated that they had repaid the amount directly to Chinnasamy (A1), and when they approached Chinnasamy (A1) on receiving default notices, Chinnasamy(A1) handed over the money to the parties and thereafter, they discharged the loan directly by paying it to the Society. Therefore, Mr.D.Shanmugaraja Sethupathi, learned counsel contended that the petitioner was not involved in the offence at all inasmuch as it is crystal clear that it was Chinnasamy (A1), who had temporarily misappropriated the amount and had returned the amounts to the parties, when they approached him.

3. *Per Contra*, the learned Government Advocate (Criminal side) submitted that the petitioner was working as Special Officer and without his connivance, this offence could not have taken place. He further submitted that in the case of loan relating to Periyasamy, the amount that was misappropriated by Chinnasamy(A1) was directly paid by Chinnasamy(A1) in the name of Periyasamy. That apart, it is the clear assertion of Periyasamy that he had not signed in the challan for payment of the amount to the Society and that the signature in the challan is not that of his. The Police have collected the admitted signatures of Periyasamy and sent the same along with the signatures found in the payment challan to the Handwriting Expert for comparison and report. The report given by the Handwriting Expert shows that the signature of Periyasamy found in the challan is not that of Periyasamy.

4. The learned Government Advocate (Criminal side) brought to the notice of this Court that this petitioner has countersigned below the forged signature of Periyasamy in the challan as Special Officer and, therefore, this petitioner cannot plead ignorance with regard to the forgery that has been committed in respect of Periyasamy's signature.

<https://hcservices.ecourts.gov.in/hcservices> 5. Referring the said submission, Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner submitted that the challan indicates the receipt of money by the Society and,



therefore, when there is an inward deposit into the account of Society, it is not necessary for the petitioner to scrutinize as to who had signed as Periyasamy in the said challan.

6. There appears to be sufficient force in the submission of Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner. But, however, this explanation of the accused cannot be accepted in a petition under section 482 of the Code of Criminal Procedure. The fact remains that below the forged signature of Periyasamy, the petitioner has countersigned and, therefore, there is a *prima facie* material to show that there was a common intention between the petitioner and Chinnasamy (A-1), inasmuch as the amount that is due by Periyasamy has been remitted very late into the account of the Society. Therefore, while dealing with the petition under Section 482 of the Code of Criminal Procedure, the explanation offered by the accused cannot form the basis of quashing the prosecution.

7. Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner submitted that the police had not sent the disputed signature of Periyasamy with that of his admitted signature to the Handwriting Expert. It is strongly refuted by Mrs.V.Umamaheswari, Inspector of Police, Commercial Crime Investigation Wing/CID, Tiruchirappalli Unit, who had submitted that the report has been submitted to the Judicial Magistrate No.III, Trichy. This Court has no reasons to doubt this assertion by the learned Government Advocate (Criminal side) on instructions from the Investigating Officer. It is incumbent on the learned Judicial Magistrate No.III, Trichy, to furnish a copy of the report free of cost to the accused under Section 207 of the Code of Criminal Procedure. Therefore, this Court directs the learned Judicial Magistrate No.III, Trichy, to furnish a copy of the report of the Handwriting Expert to the accused under 207 of the Code of Criminal Procedure, within a period of two weeks from the date of receipt of a copy of this order.

8. In the result, this petition is devoid of merits and accordingly, the same is dismissed with liberty to the petitioner to raise all the points before the Trial Court. Whatever observed above is only for the limited question of deciding this petition and the Trial Court shall proceed with the trial without in any manner being influenced by the observation as stated above. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1. The Judicial Magistrate No.III,
Tiruchirappalli.

2. The Sub-Inspector of Police,
Commercial Crime Investigation Wing/CID,
Tiruchirappalli Unit,
Tiruchirappalli.

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

+1cc to Mr.D.Shanmugaraja Sethupathi, Advocate Sr.No.55312

ta/sml

vb/rsk/sar3/10.05.2017/4p/5c

Order made in
Cr1. O.P. (MD) No.22125 of 2016
Dated: 02.05.2017