



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2017

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WEB COPY

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C(MD).No.472 of 2017

Abdul Azees (Fidrathulla)

... Petitioner

-Vs-

1.The State rep. by
Inspector of Police,
District Crime Branch,
Kanyakumari District.
(Cr.No.14/2014)

2.S.Mohammed Kasim

3.M.Syed Mohamed

... Respondents

Prayer : Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the judgment dated 02.05.2016 made in Cr1.M.P.No.(Not numbered) of 2016 in Cr.No.14 of 2014 on the file of the Judicial Magistrate Court No.I, Nagercoil.

For Petitioner : Mr.J.Sulthan Basha
for M/S.Ajmal Associates

For Respondent : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor (Cr1. Side) for R-1
Mr.S.R.Anbarasu for RR-2 & 3

O R D E R

This Criminal Revision Petition has been filed against the judgment, dated 02.05.2016 made in Cr1.M.P.No.(Not numbered) of 2016 in Cr.No.14 of 2014 on the file of the Judicial Magistrate Court No.I, Nagercoil.

2.The petitioner is said to have given a complaint against the respondents 2 and 3 alleging that while they were acting as trustees of the Jamath, they had misappropriated the funds of Jamath to the tune of Rs.10,00,000/-. Based on the complaint of the petitioner, a case has been registered in Cr.No.14 of 2014 for the offence under Sections 441, 378, 403 and 420 I.P.C and after investigation, the respondent Police filed a negative final report stating that no allegation is made out against the respondents 2 and 3. After receipt of the above final report, a notice has been issued to the petitioner by the lower Court and in pursuant to the same, the petitioner also filed a protest petition. After considering all the materials and upon hearing the petitioner, the Court below accepted the final report. Challenging the same, the



present revision has been filed.

3.The learned counsel appearing for the petitioner submitted that even though relevant vouchers for withdrawing the amount from Jamath are available, the respondents 2 and 3 have failed to produce them before the respondent Police. According to him, the respondent Police, without conducting proper investigation, have mechanically filed final report. The lower court has also mechanically accepted the same.

4.Per contra, the learned Additional Public Prosecutor submitted that the respondent Police conducted thorough investigation and entire accounts of the Jamath have been verified in the presence of the petitioner and auditor report was also considered. The allegation of misappropriation was not proved from the available records. The lower court also, after considering the objections raised by the petitioner, has passed the impugned order. Hence, there is no infirmity in the order.

5.I have heard Mr.J.Sulthan Basha, learned counsel appearing for the petitioner, Mr.C.Mayil Vahana Rajendran, the learned Additional Public Prosecutor, appearing for the first respondent and Mr.S.R.Anbarasu, learned counsel appearing for the respondents 2 and 3.

6.The main allegation of the petitioner against the respondents 2 and 3 is that while they were working as trustees of the Jamath, they have misappropriated the funds of the jamath by showing forged vouchers. Investigation reveals that the accounts of the jamath have been verified in the presence of the petitioner and from the records, no misappropriation is established. The lower court also considered the grounds raised by the petitioner in the protest petition. In the above circumstances, I found no illegality or infirmity in the order passed by the learned Judicial Magistrate No.I, Nagercoil.

7.In fine, this Criminal Revision Case is dismissed. The order dated 02.05.2016, made in CrI.M.P.No.(Not numbered) of 2016 in Cr.No.14 of 2014, passed by the learned Judicial Magistrate Court No.I, Nagercoil is confirmed.

Sd/-

Assistant Registrar(CrI.Side)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate Court No.I,
Nagercoil.

2.To The Principal Officer, Judicial Magistrate,
Kanyakumari.



3. Inspector of Police,
District Crime Branch,
Kanyakumari District.

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

+1cc to Mr.S.R.ANBARASU Advocate in SR. No.63462
+1cc to AJMAL ASSOCIATES in SR. No.63518

VS

JS/MR/KKR/SAR.3/13.07.2017/3P-7C

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