



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C(MD).No.4 of 2013

and

M.P.(MD).No.1 of 2013

Akkiniraj

.. Petitioner/Accused No.1

-Vs-

State through the

The Deputy Superintendent of Police,

CCIW, Madurai City.

... Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 27.09.2012 made in Cr.M.P.No.670 of 2009 in C.C.No.138/06 on the file of the Judicial Magistrate, No.3, Madurai (C.C.I.W) and to set aside the same.

For Petitioner

: Mr.R.Suriyanarayanan

For Respondent

: Mr.C.Mayilvahana Rajendran

Additional Public Prosecutor (Crl. Side)

O R D E R

Challenging the order dismissing the discharge petition, the present Criminal Revision Case has been filed.

The case of the prosecution is as follows:

2.The petitioner is A-1 in C.C.No.138 of 2006. He stood charged under Sections 120(B), 406, 468, 471 and 477-A of I.P.C. The allegation against the petitioner was that when the petitioner was working as President of one Madurai Thirunagar Housing Society, the society purchased a property, converted the same into house sites, and allotted the house sites to various persons. But, they sold the house sites lesser than the market value fixed by the District Revenue Officer and thereby caused loss to the society to the tune of Rs.93 lakhs. Apart from that, they have also sold some of the properties to private parties, without allotting the house sites to the eligible members. Earlier, an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act has been conducted and subsequently, based on the enquiry, a complaint has been filed, and after investigation, charge-sheet has been filed, charging the petitioner for the above said offence. Thereafter, he filed a petition before the court below to discharge him. The trial court dismissed the said petition. Now, challenging the same, the present Revision Case has been



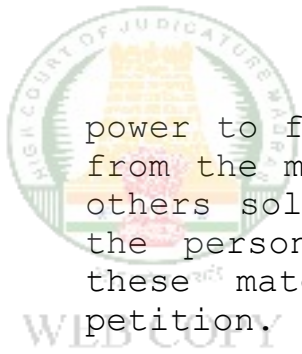
3.I have heard Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor, appearing for the respondent.

4.The learned counsel appearing for the petitioner would submit that during the relevant time, the petitioner was working as a President of the concerned Co-operative Housing Society and as per the bye law of the society, he has no role in allotment of house sites. Insofar as the allegation that the petitioner and other accused have sold the house sites lesser than the market value fixed by the District Revenue Officer, the learned counsel would submit that the house sites have been sold higher than the market value and the District Revenue Officer is not the competent authority to fix the prices of the house sites. Further, according to him, the charges levelled against the petitioner are false and no prima facie case is made out against the petitioner.

5.The learned counsel appearing for the respondent would submit that the department has conducted an enquiry against the petitioner and other accused under Section 81 of the Tamil Nadu Co-operative Societies Act and the Enquiry Officer has also given a finding that the petitioner and others caused loss to the society and also misappropriated the property. Based on the same, a complaint has been filed. There are materials available on record to show that the petitioner and other accused sold the property for lesser price and also allotted some of the properties to some private parties, without allotting the same to society members and a prima facie case has been made out against the petitioner. Considering the entire materials, the court below has rightly dismissed the petition filed by the petitioner. Hence, there is no illegality or irregularity in the order passed by the court below.

6.I have considered the rival submissions.

7.The main allegation against the petitioner is that a Co-operative Housing Society, in which, the petitioner was a President, has purchased a property and converted the same into house sites and sold 206 house sites and while selling the house sites, they have not followed the market value fixed by the District Revenue Officer. They have sold the properties for a lesser value and thereby caused loss to the society and also they have misappropriated the amount. The further allegation is that even though there are eligible members in the society, they have allotted the house sites to some of the private parties and they have committed defalcation. Based on the enquiry conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, a complaint has been filed. According to the petitioner, the District Revenue Officer has no power to fix the guideline value. But that issue whether the District Revenue Officer has



power to fix the guideline value cannot be decided at this stage, from the materials available, it is clear that the petitioner and others sold the property for a lesser price than market value to the persons, other than the society members. Considering all these materials, the trial court has rightly dismissed the petition.

8. Considering the above facts and circumstances of the case and on considering the materials available on record, I find no illegality or irregularity in the order passed by the court below. Hence, this revision case is liable to be dismissed.

9. In fine, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. Since the criminal case is pending from the year 2006, the Judicial Magistrate, No.3, Madurai (C.C.I.W) is directed to dispose the C.C.No.138/06 within a period of six months from the date of receipt of a copy of the order.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, No.3, (C.C.I.W) Madurai.

2.The Deputy Superintendent of Police,
CCIW, Madurai City.

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

+1cc to M/S.R.SURIYA NARAYANAN, Advocate SR.No.71455

vs

MAS/JC/SAR2:21.09.2017:3P-5C

CrI.R.C(MD) No.4 of 2013
09.08.2017