



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C. (MD) .No.800 of 2013 and

M.P (MD) NO.1 of 2017

S.Pundareekashan Nair

: Petitioner/Accused 3

-Vs-

The Enforcement Officer,
Employees Provident Fund,
Kanyakumari III Division.

: Respondent/Complainant

Prayer : Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in Cr.M.P.No.5818 of 2006 in C.C.No.230 of 2000 on the file of the Judicial Magistrate, Padmanabhapuram and to set aside the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : No Appearance

ORDER

This Criminal Revision Case has been filed against the dismissal of the discharge petitioner to discharge the petitioner from the Case.

2. A complaint has been filed by the Enforcement Officer, Employees Provident Fund against one N.V.K.S Higher Secondary School, Attoor, Kanyakumari District, for violation of non payment of provident fund to the employees of the School and thereby, they committed the offence under Section 14(1A) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952. The above complaint was taken cognizance and summons was also issued. Thereafter, the petitioner filed a discharge petition in Cr1.M.P.No.5818 of 2006 alleging that during the relevant period, in which, the alleged default has been made, the petitioner was not an office bearer of the said School and he has been wrongly implicated in this case. The Learned Judicial Magistrate Padmanabapuram dismissed the petition, by an order dated 08.04.2010, against which the present revision has been filed.

3. The learned Counsel appearing for the petitioner would contend that during the relevant period of default the petitioner was not the office bearer of the School and he also produced Form 7



submitted by Secretary of NVKS Educational Society, regarding the change of the Office bearers. Without considering the same, the Trial Court issued summons to the petitioner, hence, he sought for allowing the Criminal Revision Case.

4. Heard the learned counsel appearing for the petitioner.

5. The main contention of the petitioner is that he was not Office bearer during the relevant period. In order to substantiate his contention, he also filed a copy of Form 7, submitted by the Secretary, N.V.K.S.Educational Society.

6. It is settled law that at the time of framing charge the documents placed by the prosecution can only be considered and the materials placed by the accused cannot be considered. Apart from that the document filed by the petitioner has to be proved during trial and it cannot be accepted on the face of it. Hence, there is no illegality or irregularity in the order passed by the Court below.

7. Accordingly, this Criminal Revision Case is dismissed. It is open to the petitioner to submit all the documents before the Trial Court during trial he prove his defence.

8. Since the matter is pending from 2000, the Trial Court is directed to proceed with the case in C.C.No.229 of 2000 as expeditiously as possible and dispose of the same within a period of three months from the date of receipt of a copy of this order.

9. It is always open to the petitioner to file a petition seeking to dispense his appearance and on such filing, Trial Court is directed to consider the same and pass orders on merits.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Padmanabhapuram.

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

+1cc to Mr.S.C.HEROLD SINGH Advocate in SR. No. 70942

TA

JS/KP/SAR.1/11.09.2017/2P-4C

<https://hcservices.ecourts.gov.in/hcservices/>

Cr1.R.C. (MD) .No.800 of 2013

07.08.2017