

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

C O R A M

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

Crl.O.P.Nos.16397 & 18148 to18159
of 2010 and MP.Nos.1,1,1,1,1,1,1,
1,1,1,1,1 & 1 of 2010

Muruganantham

...Petitioner
in all Crl.OP's

Vs.

State Rep By
The Inspector of Police,
C.C.I.W.C.I.D.,
Tiruvavarur
Crime No.1/2004

... Respondent
in all Crl.OP's

COMMON PRAYER

Criminal Original Petitions filed under Section 482 of Cr.P.C to call for the records relating to C.C.Nos.317, 318,319,320, 321 & 323, 324,325,326,327,328,329 , 330 of 2009 on the file of J.M.Thiruthuraipoondi and quash the same.

For Petitioner : Mr.L.Premkumar for
in all Crl.OP's Mr.T. Muruganantham
For Respondent : Mr.G.Harihara Arunsomasankar,
in all Crl.OP's Government Advocate (Crl.side)

COMMON O R D E R

These criminal original petitions have been filed under Section 482 of Cr.P.C to call for the records relating to C.C.Nos.317 to 321 & 323 to 330 of 2009 on the file of Judicial Magistrate, Thiruthuraipoondi and quash the same.

2. The petitioner is an accused in CC.Nos.317 to 321 & 323 to 330 of 2009 before the Judicial Magistrate, Thiruthuraipoondi. He has filed the present petitions under Section 482 of Cr.P.C. to call for the records in CC.Nos.317 to 321 & 323 to 330 of 2009 on the file of the Judicial Magistrate, Thiruthuraipoondi and to quash the same.

3. The respondent police, based on a complaint given by Thiru.N.Kaliyamoorthy, the Deputy Registrar(Housing) has registered an FIR in Crime No.1 of 2004, C.C.I.W.C.I.D., Tiruvarur on 10.11.2004 against the accused (i)A.Jothi Kumar, (ii)P.Anandham, (iii)R.V.Ramanadhan, (iv)K.Tamilarasi, (v) S.Paranthaman, (vi)A.Arunachalam, (vii)S.Venkatachalam, (viii) R.Manickam, (ix)S.Sakunthala, (x)A.Kadhar Sherif, (xi) A.Sivaramalingam, (xii)K.Muruganandam and (xiii)N.Mohandas for the alleged offences punishable under Sections 408, 409, 467, 471, 477(A) r/w 120(b) of IPC. After completing the investigation, he laid a charge sheet against the accused for the offences punishable under Sections 408, 409, 467, 471, 477 (A) r/w 120(b) of IPC before the Judicial Magistrate, Thiruthuraipoondi. The learned Judicial Magistrate, Thiruthuraipoondi took cognizance of the offences and issued summons to all the accused. At this stage, the petitioner Mr.Muruganantham, one of the accused, has filed the present petitions to quash the entire proceedings in CC.Nos.317 to 321 & 323 to 330 of 2009 before the Judicial Magistrate, Thiruthuraipoondi.

4. The primordial submission of Mr.L.Premkumar, learned counsel appearing for the third accused is that when the Registrar of Cooperative Societies vide his orders in Na.Ka.No.11600/ 2001/A2 dated 22.10.2001 has observed that the present accused has been wrongly included as a delinquent and that there is no evidence that he swindled the amount from the society, the Inspector of Police, Economic Offences Wing, Tiruvarur is wrong in showing the petitioner as an accused without considering the orders passed by the Registrar of Cooperative Societies.

5. The learned Government Advocate(Crl.side) filed his counter and contended that as per Section 81(1) of Tamil Nadu Cooperative Societies Act, 1983, since the Registrar has entrusted the conduct of enquiry with the Deputy Registrar, he cannot hold that the present petitioner is not involved in any offence especially when the enquiry by Deputy Registrar is concluded. According to the learned Government Advocate (Crl.side), the Registrar is not an Appellate Authority. Section 81 (1) of the Tamil Nadu Cooperative Societies Act, 1983 reads as follows.

"The Registrar, may on his own motion and on the application of a majority of the Board, or not less than one-third of the members, or on the request of the Financing Bank or of the District Collector, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial conditions of

a registered Society or any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice, or mis-management in relation to that Society or into any particular aspect of the working of that Society."

6. A perusal of Section 81 (5) shows that the Registrar can withdraw any enquiry from the person authorised by him under Sub-Section (1) and hold the enquiry himself or entrust it to any other person as he deems fit. In the instant case, the Registrar has not withdrawn the enquiry from the file of Deputy Registrar of Cooperative Societies. In any event, the respondent police after conducting investigation has laid a charge sheet against the accused for the offences punishable under Sections 408, 409, 467, 471, 477(A) r/w 120(b) of IPC. When the criminal conspiracy is alleged, it is for the prosecution to establish the case against the respondent beyond reasonable doubt. The petitioner can also adduce evidence to show that he is innocent. Therefore, without conducting fullfledged trial, it cannot be held in the present case that the entire proceedings as against the present petitioner should be quashed. The criminal trial is contemplated only on the definite allegations, prima facie establishing the commission of an offence by the accused which has to be proved by leading unimpeachable and acceptable evidence in the course of trial against the accused. At this stage, the proceedings in CC.Nos.317 to 321 & 323 to 330 of 2009 cannot be quashed and the petitions are liable to be dismissed.

7. The learned Judicial Magistrate, Thiruthuraipoondi is directed to complete the trial within a period of three months from the date of receipt of a copy of this Order and the Registry is directed to send the records without any delay.

8. In the result, the petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

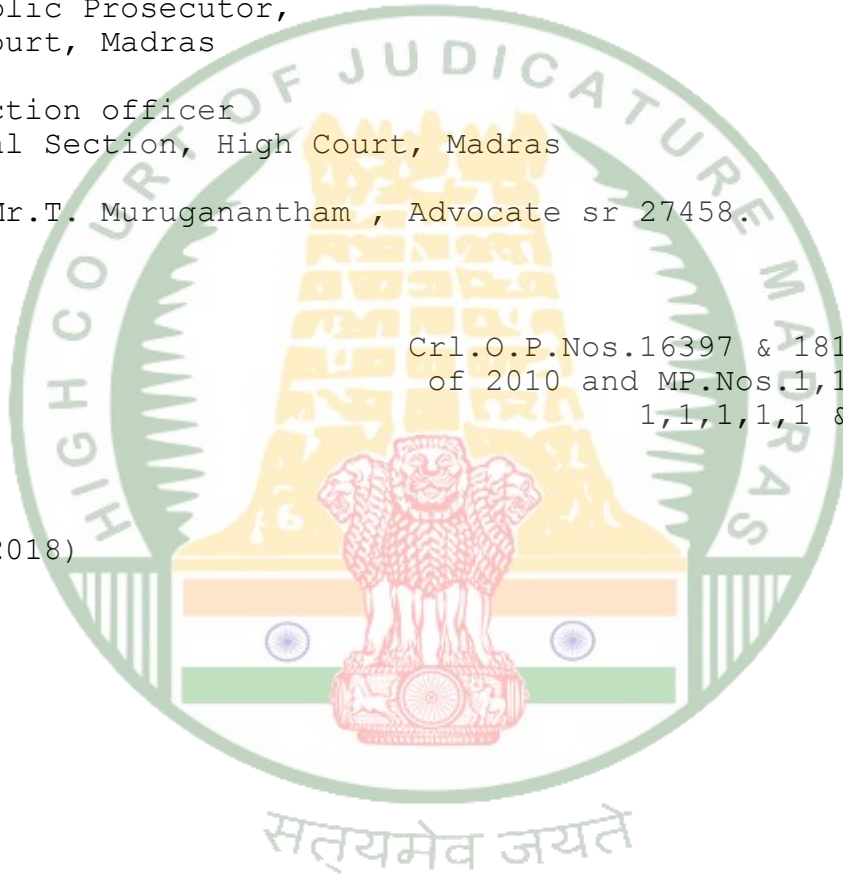
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To

1. The Judicial Magistrate,
Thiruthuraipoondi
 2. Do Thro The Chief Judicial Magistrate
Thiruvarur.
 3. The Inspector of Police,
C.C.I.W.C.I.D.,
Tiruvarur
 4. The Public Prosecutor,
High Court, Madras
 5. The Section officer
Criminal Section, High Court, Madras
- +1 CC to Mr.T. Muruganantham , Advocate sr 27458.

Crl.O.P.Nos.16397 & 18148 to18159
of 2010 and MP.Nos.1,1,1,1,1,1,1,
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NRL (CO)
SP(23/04/2018)



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