

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.24846 of 2018
and
Crl.M.P.No.14026 of 2018

K.Maheswaran

.. Petitioner

Vs

The State of Tamil Nadu,
Represented by The Inspector of Police,
Mandharakuppam Police Station,
Cuddalore District.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to Crime No.42 of 2017 dated 26.02.2017, registered by Mandarakuppam Police Station, pending on the file of the respondent, in so far as the petitioner is concerned and quash the same.

For Petitioner : Mr.S.Karthikeyan
for Mr.M.Ravi

For Respondent : Mrs.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records relating to Crime No.42 of 2017 dated 26.02.2017, registered by Mandharakuppam Police Station and pending on the file of the respondent police, insofar as the petitioner is concerned and quash the same.

2. On the complaint lodged by the District Manager, TASMAC, Cuddalore, the respondent police have registered a case in Crime No.42 of 2017 on 26.02.2017 against Govindaraj (A1), Maheswaran (A2), Mayavel (A3) and Sivasankar (A4), for the offences under Sections 406, 409 and 420 IPC.

3. It is the case of the de facto complainant that the petitioner was working as a salesman in TASMAC shop bearing No.2477 and during inspection, a sum of Rs.12,78,590/- was found as shortfall. Hence, the complaint and the FIR.

4. Mr.S.Karthikeyan, learned counsel appearing for the petitioner submitted that the petitioner was working only as a salesman and the entire cash transactions and other activities were being looked after by Govindaraj (A1), who was working as Supervisor in the shop. In this regard, Mr.S.Karthikeyan placed strong reliance on Clause No.6 of the TASMAC's Circular bearing No.Na.Ka.R.V.1/2014 dated 26.12.2014, wherein, Supervisor has been made responsible for any shortfall. The learned counsel also contended that the supervisor himself has admitted that it was he, who is responsible for the defalcation of the amount. Therefore, the prosecution against the petitioner deserves to be quashed.

5. Per contra, learned Additional Public Prosecutor, appearing for the respondent police, refuted the contentions.

6. This Court gave its anxious consideration to the rival submissions.

7. Though, the circular states that the Supervisor is responsible for any shortfall, that cannot, in any manner, be a shield against criminal prosecution of the accused, if it is found that the accused had misappropriated the amount. The said circular can have effect only for departmental action and in no way, can limit police investigation.

8. That apart, the alleged admission by A1 that he was responsible for the defalcation can be considered by the police, only during the course of investigation. The fact remains that the petitioner was a salesman in the TASMAC shop, along with the other accused, and the authorities have found a shortfall of Rs.12,78,590/-. The investigation is at the infancy stage and therefore, the same cannot be quashed at the threshold in the light of the law laid down by the Supreme Court in State of Haryana v. Bhajan Lal & Others [AIR 1992 SC 604 : 1992 Supp (1) SCC 335].

Hence, this Criminal Original Petition is closed with a direction to the respondent police to thoroughly investigate the case and if during investigation, it is found that the petitioner was not involved in the offence, it is needless to

state that further action against the petitioner shall be dropped. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mkn

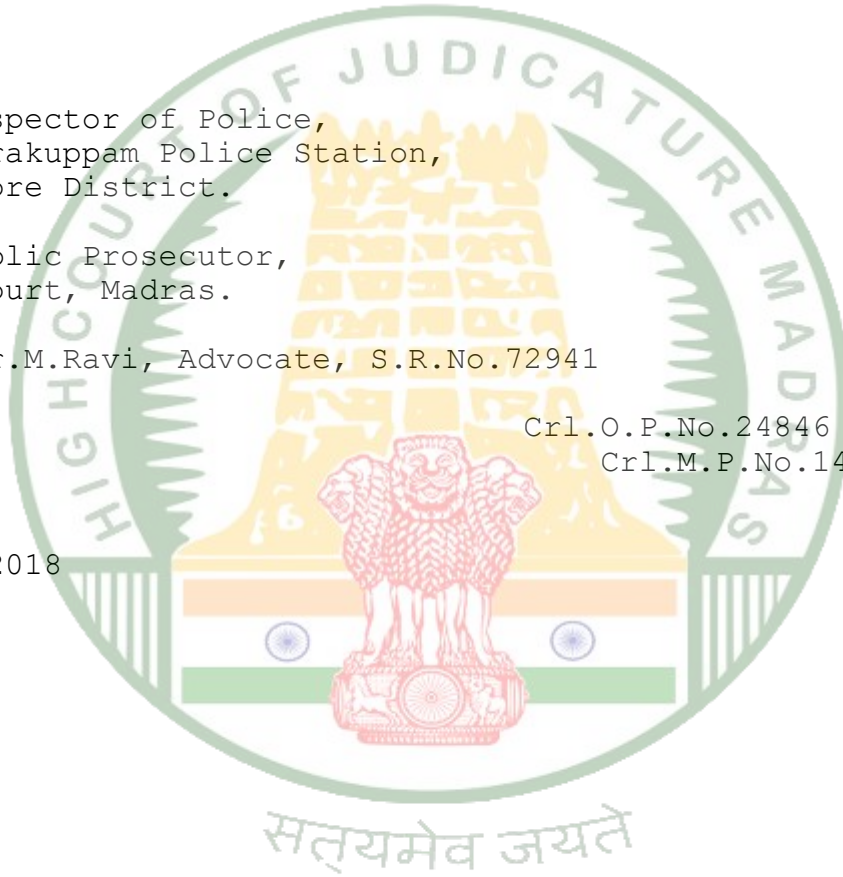
To

1. The Inspector of Police,
Mandharakuppam Police Station,
Cuddalore District.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Ravi, Advocate, S.R.No.72941

Crl.O.P.No.24846 of 2018 and
Crl.M.P.No.14026 of 2018

EV(Co)
CS/12/11/2018



WEB COPY