

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2019
CORAM
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.7354 of 2016

N.Dhandapani

.. Petitioner

Vs.

1.State Rep. by
Sub Inspector of Police,
CCIW, Krishnagiri.
(Crime No.1 of 2009).

2.The Deputy Registrar of Co-operative Societies,
Krishnagiri.

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set-aside the order passed in Crl.R.C.No.11 of 2013, dated 26.10.2015 on the file of the Principal District Court, Krishnagiri, confirming the order passed in C.M.P.No.2071 of 2012 dated 20.09.2013, on the file of the District Munsif cum Judicial Magistrate, Uthangarai, in C.C.No.18 of 2009 on the file of the District Munsif cum Judicial Magistrate, Uthangarai.

For Petitioners : Mr.S.Doraisamy

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed challenging the order passed by the Court below in Crl.R.C.No.11 of 2013, confirming the order passed in C.M.P.No.2071 of 2012 by the trial Court dismissing the discharge petition filed by the petitioner.

2. The petitioner is facing trial before the Court below for an offence under Sections 408, 409 and 477(A) of IPC. The petitioner filed a petition for discharge on the ground that there are absolutely no materials available against the petitioner for framing of charges. This Petition came to be dismissed and was further confirmed in revision on the ground that there are materials to frame

charges and therefore the petitioner cannot be discharged from the case.

3. Mr.S.Doraisamy, learned counsel appearing on behalf of the petitioner submitted that initially the complaint was given as if the total misappropriated amount is Rs.11,48,264.20/-. This was arrived at as per the enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act. During the course of investigation, the prosecution was able to find materials only for an amount of Rs.4,04,037/- which is alleged to be the misappropriated amount. The learned counsel further submitted that pursuant to the orders passed by this Court dated 28.04.2017, the petitioner deposited a sum of Rs.4,00,000/- and the same was recorded by this Court by an order dated 02.06.2017 and the interim order was made absolute. The learned counsel further submitted that even if some materials are available, the trial Court can be directed to take into consideration, the subsequent development where the petitioner has deposited a sum of Rs.4,00,000/- and the petitioner can be considered to be let out under the Probation of Offenders Act, 1958.

4. The learned Additional Public Prosecutor submitted that there are totally 15 witnesses on the side of the prosecution and already PW.1 to PW.13 have been examined by the prosecution. The learned counsel therefore submitted that at this stage, this Court cannot entertain the petition and the petitioner has to necessarily place all facts only before the Court below. The learned counsel further submitted that the deposit of amount made subsequently by the petitioner cannot be a ground to discharge the petitioner.

5. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

6. It is true that the petitioner has deposited a sum of Rs.4,00,000/- pursuant to the orders passed by this Court out of Rs.4,04,037/- which is alleged to be misappropriated amount as per the charge sheet. However, it is brought to the notice of this Court that 13 witnesses have already examined by the prosecution and therefore this Court cannot consider the discharge petition at this stage.

7. All the contentions put forth by the petitioner shall be considered by the Court below on its own merits and in accordance with law. The Court below shall take into consideration the fact that the petitioner had deposited a sum of Rs.4,00,000/-, at the time of final disposal of the

case. This Court is not inclined to interfere with the proceedings at this stage.

8. In the result, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.18 of 2009, on the file of the District Munsif cum Judicial Magistrate, Uthangarai, within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

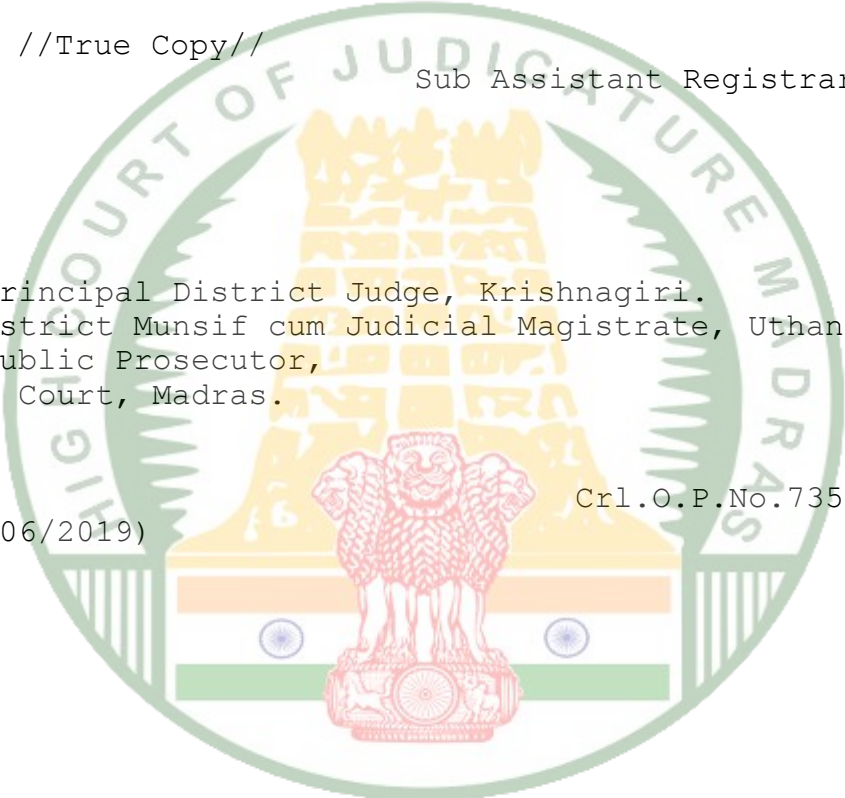
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To

- 1.The Principal District Judge, Krishnagiri.
- 2.The District Munsif cum Judicial Magistrate, Uthangarai.
3. The Public Prosecutor,
High Court, Madras.

A.SK(28/06/2019)

Cr1.O.P.No.7354 of 2016



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