IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.185 of 2012
and M.P.No.1 of 2012

K.R.Nagarajan ... Petitioner/Petitioner-2

Vs.

The State Rep.by
The Inspector of Police,
District Crime Branch,
Kancheepuram District.
Crime No.1/2004 ... Respondent

Prayer: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to set aside the order dated 13.09.2011 passed by the learned Judicial Magistrate No.I, Kancheepuram in C.M.P.No.1214/2011 in C.C.No.189/2009 and discharge the petitioner/Accused No.2 from C.C.No.189/2009.

For Petitioner : Mr.V.L.Akshai Sajin Kumar
for Ms.M.Srividya

For Respondent : Mr.T.Shanmuga Rajeswaran, GA

O R D E R

The petitioner herein is the second accused in C.C.No.189 of 2009. He has been charged along with the other accused for the offences under Section 408, 465, 471, 477(A) and 420 r/w 34 IPC.

2. The substance of the charge against this revision petitioner is that while he was serving as Executive Officer during the period from 17.06.1999 to 22.12.2002 in Sevlimedu Town Panchayat along with the Junior Assistant Elumalai, President and Member of the said Town Panchayat had fabricated the documents falsified the account and misappropriated money to the tune of Rs.1,08,91,723/-.

3. Based on the complaint given by Liyagath Ali, Executive Officer a case was registered against four persons namely Elumalai-Junior Assistant, Nagarajan-Executive Officer revision

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petitioner herein, Selvaraj-then president of Sevlimedu Town Panchayat and Gopalakrishnan member of the said panchayat.

4. The learned counsel appearing for the revision petitioner would submit that the case against the petitioner based on the confession statement of the co-accused A1 and the complaint given by the Executive Officer Liyagath Ali. When discharge petition was filed by the accused 3 and 4, who were the elected member of the Town Panchayat, this Court in Crl.R.C.Nos.468 and 469 of 2010 allowed the petition and quashed the charges against them on the ground that the said Liyagath Ali, who has set the criminal law in motion, died and the confession statement of the co-accused does not implicate the accused 3 and 4.

5. As far as this petitioner is concerned, from the records this Court finds that besides the confession statement of the co-accused A1 Junior Assistant, the other documents collected and relied by the evidence prosecution also reveals that uncrossed cheques were signed by the petitioner to enable A1 to encash the same in his account. When misappropriation, malpractice and falsification of account is carried out by A1, as the Executive Officer of the said Town Panchayat the petitioner herein has not cared to prevent it. It was his successor who found out the misappropriation and the set the criminal law in motion. Because the defacto complainant has died, the criminal prosecution cannot get abated against the accused persons who have swindled the public money.

6. As the prima facie material available to show that the present petitioner has participated in the crime along with A1 and in furtherance of common intention misappropriated to the tune of Rs.1,08,91,723/-, this is not a case for discharging the accused. The revision petitioner is bound to face the trial. The local fund audit report also does not give clean chit to the revision petitioner. It has clearly found fault with Elumalai clerk and the present revision petitioner for the loss of the bank. Therefore, enough materials are available to charge him for the said offence.

7. Having noted material available to charge the revision petitioner, this Court does not want to advert further about the merits of the case. It will prejudice the revision petitioner facing the trial. It is open to the revision petitioner to put forth the materials which he wants to rely upon to prove his innocence. Any observation made in this revision petition shall not be considered by the trial Court while final disposal of the case after full trial.

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The Court below is directed to complete the trial preferably within a period of 8 months from the date of receipt of copy of this order.

8. In the result, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Judicial Magistrate No.I, Kancheepuram.

2.do Thro The Chief Judicial Magistrate,
Mancheepuram

3.The Inspector of Police,
District Crime Branch,
Kancheepuram District.

4.The Public Prosecutor
High Court, Madras.

5.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Ms.M.Srividya, Advocate sr.no.20897

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