

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6564 of 2019
and
Crl.M.P.No.3630 of 2019

Selvaraj ... Petitioner/4th Accused
Vs.

1.The State Rep. by
Inspector of Police
CCIW, Namakkal District
(Crime No.6 of 2018) ...Respondent/Complainant

2.Dharmalingam ...Respondent/Defacto Complainant

PRAYER:Criminal Original Petition has been filed under
Section 482 of Cr.P.C. to call for the records with respect of
Crime No.6 of 2018 dated 29.10.2018 pending on the file of the
1st respondent and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondent-1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

The prayer sought for in this Criminal Original Petition is
to quash the F.I.R. in Crime No.6 of 2018 on the file of the 1st
respondent police and quash the same.

2. The learned Counsel appearing for the petitioner would
submit that the 1st accused in the above case was working as
Secretary in the Rasipuram Teachers and Government Employees Co-
operative Housing Society, Rasipuram. The petitioner along with
other accused were alleged to have borrowed housing loan from
the said society by mortgaging their property to the concerned

Sub-Registrar Office. While so, the 1st accused alleged to have issued receipt to the accused 2 to 6 as if they have discharged their loan and based on the receipt they have released their mortgage from the concerned Sub-Registrar Office. As per the complaint, the petitioner herein alleged to have received a sum of Rs.4,50,000/- from the said Society and later on 31.02.2013 the 1st accused received a sum of Rs.9,50,000/- from the house of the petitioner and in turn the 1st accused issued receipt for reception of the said loan and based on the receipt the petitioner herein discharged and released the mortgage document. The 1st accused has not made any entry in the Society with respect to receipt of the said amount from the said society and thereby caused loss to the society. Under such circumstances, enquiry was conducted under Section 81 of Co-Operative Society Act and the enquiry officer has filed a report and based on which the 1st respondent has made the above complaint. The petitioner has no role in the above case. The petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the 1st respondent police registered a case in Crime No.6 of 2018 for the offences u/s. 120(B), 408, 467, 471, 477A IPC as against the petitioner. Hence he prayed to quash the same.

3.The learned Additional Public Prosecutor would submit that the investigation is almost completed and the respondent police have only to file a final report.

4.Heard Mr.R.Nalliyappan, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the 1st respondent.

5.It is seen from the First Information Report that there is a specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

6.In the light of the above, this Court is not inclined to quash the FIR. However, considering the facts and circumstances of the case, the 1st respondent is hereby directed to conduct enquiry and complete the investigation in Crime No.6 of 2018 and file a final report within a period of three months from the date of receipt of copy of this Order, before the jurisdictional Magistrate, if not already filed.

7.With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

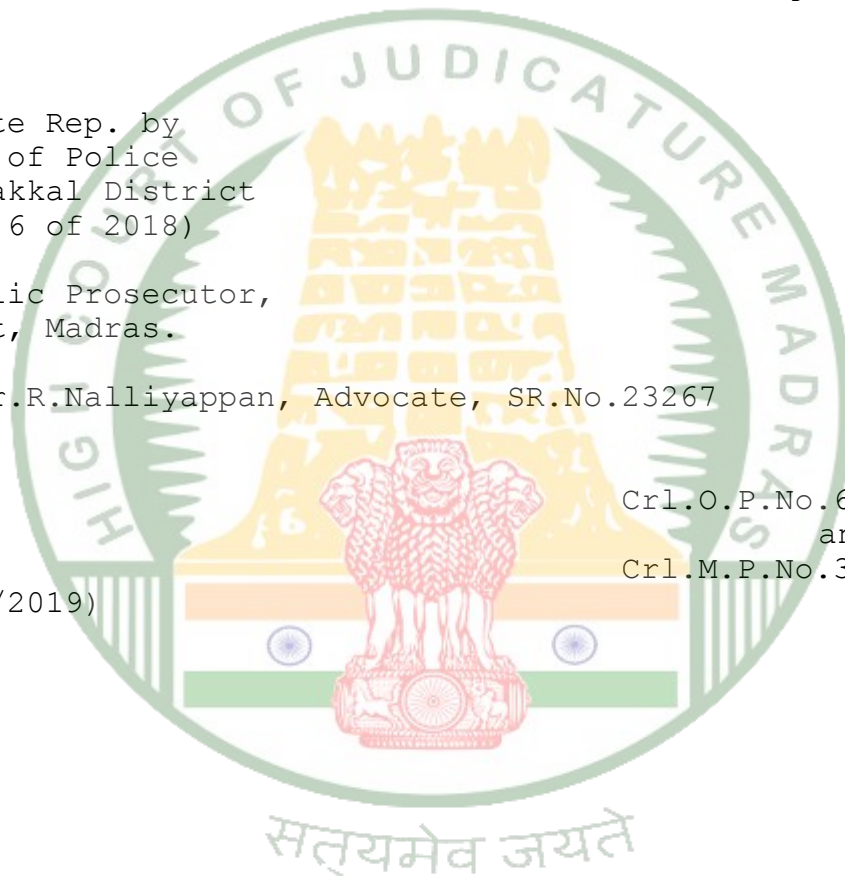
1.The State Rep. by
Inspector of Police
CCIW, Namakkal District
(Crime No.6 of 2018)

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Nalliyappan, Advocate, SR.No.23267

CrI.O.P.No.6564 of 2019
and
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Kak(03/04/2019)



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