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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.07.2019
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.4257 of 2019 and
CRL.M.P.(MD)No.2581 of 2019

M.R.Madasamy ... Petitioner/Accused No.15

Vs.

1. The Inspector of Police,
C.C.I.W. Wing,
Ramanathapuram. ... 1st Respondent
(Crime No.1 of 2019)

2. V.Venkatachalapathi,
Deputy Registrar,
Paramakudi Incharge,
Ramanathapuram District. ... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the first information report in Crime No.1 of 2019 on the file of the first respondent and quash the same in so far as this petitioner/15th accused is concerned.

For Petitioner : Mr.Veera Kathiravan,
Senior Counsel,
for M/s.Veera Associates.
For Respondents : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor.

ORDER

The petitioner who has been added as the 15th accused in the impugned First Information Report, wants this Court to quash the same insofar as he is concerned.

2. Heard the learned Senior counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned Senior counsel appearing for the petitioner submitted that certain irregularities had taken place in the matter of crop loan waiver in Kavadipatti Primary Agricultural Society. The petitioner who is holding the rank of Cooperative Sub Registrar was the Field Officer in respect of the said society. When it

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became known that bogus claims had been submitted, the petitioner was appointed as the enquiry officer to hold an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act. The petitioner submitted a detailed report on 12.06.2018. Based on the petitioner's enquiry report, Crime No.1 of 2019 was registered on the file of the Inspector of Police, C.C.I.W. Wing, Ramanathapuram, on 14.02.2019 for the offence under Sections 420, 408, 409, 468, 471, 477A and 120(B) of I.P.C. As many as 14 persons were arrayed as accused. Investigation is still being conducted.

4. The investigation officer while conducting the investigation, came to the conclusion that there are materials to implicate the petitioner also. Therefore, an Alteration Report was filed on 24.02.2019, implicating the petitioner as 15th accused in the case. It is this addition of the petitioner as 15th accused in the First Information Report, that is under challenge in this Criminal Original petition.

5. The learned Senior counsel appearing for the petitioner drew my attention to the guidelines to Cooperative Institutions on the waiver of agricultural loans as laid down in G.O.Ms.No.59 Cooperation, food and Consumer Protection (CC1) Department, dated 28.06.2016. Clause 13 of the guidelines reads as follows:-

> "13. The procedure detailed below regarding the verification and consolidation of loans shall be followed;
>
> a. Short and Medium Term Loans
>
> (I) A list of all the eligible loan accounts of the members shall be prepared in both soft copy (in MS excel format) and hard copy by the Secretary of the Society without any omission. Loans availed by producing duplicate or unauthenticated documents or forged documents or on binami name etc., shall be strictly excluded from the list. The Secretary of the Society shall prepare the list and verify and place it in the Board for approval.
>
> (ii) The Circle Supervisor/Field Manager of CCB and Field Officer(Cooperation)/Co-operative Sub-Registrar(CSR) shall verify the list prepared as above and certify the same and submit it to the Managing Director, Central Co-operative Bank.
>
> (iii) For Agriculture loans directly issued by the Central Co-operative Bank, a list shall be prepared by the Branch Manager/Field Manager and the same shall be verified by the Assistant General manager and submitted to the Managing Director of Central Co-operative Bank. Necessary resolution shall also be obtained in the Board.
>
> (iv) All the society-wise lists received as above shall be thoroughly verified in field by the 3 member Committee, constituted by the Regional

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Joint Registrar, which shall also include the employees of the District Co-operative Bank. In addition, Regional Joint Registrar should draw officials from other districts and arrange to get super checked a minimum of 10% of the loans in each Society. The verified lists in the prescribed format shall be submitted within a month to the Managing Director of Central Co-operative Bank through the Deputy Registrar concerned. The consolidated list for the entire district shall be countersigned by the Managing Director of Central Co-operative Bank and Regional Joint Registrar before submitting to the Tamil Nadu State Apex Co-operative Bank(TNSACB).

(V) Tamil Nadu State Apex Co-operative Bank (TNSACB) shall consolidate the lists submitted by the Central Cooperative Banks and shall forward to the Registrar of Co-operative Societies."

6. The core argument of the learned Senior counsel is that the Secretary of the Society who has to prepare the list of beneficiaries, after verifying the same has to place it before the Board for approval. The papers will then go before the next Level Committee for further verification. The next Level Committee comprises Circle Supervisor/Filed Manager of CCB and Field Officer (Co-operation)/Co-operative Sub-Registrar(CSR) and it is their duty to verify the list prepared by the Secretary of the Society and certify the same and submit to the Managing Director of the Central Co-operative Bank.

7. The learned Senior counsel would take pains to argue that the petitioner's role is only to verify the documents submitted by the Society and certify the same. The petitioner is not expected to undertake 100% full verification at that stage. It is most unfair to accuse the person who was responsible for unravelling the fraud committed by the officials of the Society concerned. According to him, the persons originally named in the First Information Report alone are responsible for verifying and conducting 100% full inspection and identification of the beneficiaries and preparation of the list. This burden cannot be shifted to the petitioner herein. He submitted that without any basis, he has been arrayed as an accused in the First Information Report. The petitioner is to retire shortly and he wanted this Court to quash the First Information Report, as the continued pendency of the criminal case would seriously impair his chances of retiring peacefully.

8. The first respondent has filed a detailed counter affidavit. The learned Additional Public Prosecutor reiterated the contentions set out therein and submitted that the investigation is only at the midway stage and that therefore, it would be premature to examine the case against the petitioner on merits.

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9. I carefully considered the rival contentions.

10. It is not in dispute that the petitioner was the enquiry officer appointed under Section 81 of the Tamil Nadu Cooperative Societies Act. After conducting a detailed enquiry, he found out that out of 146 beneficiaries, 85 are not eligible for waiver. In fact even dead persons were shown as beneficiaries in the list submitted by the Secretary of the Co-operative Society. The argument of the learned Additional Public Prosecutor appearing for the prosecution is that when these shocking facts could be unearthed by the petitioner in his Section 81 enquiry, he was actually expected to have undertaken the very same exercise when the list was submitted by the Secretary of the Co-operative Society to him as the next Level Authority to scrutinize the list. The contention of the prosecution is that the petitioner had colluded with the officials of the Co-operative Society in the first instance and after the scam came to light, he chose to shift the blame on accused Nos.1 to 14. In fact the learned Additional Public Prosecutor would go to the extent of even questioning the wisdom of the authorities in appointing the petitioner as the enquiry officer under Section 81 of the Tamil Nadu Co-operative Societies Act. In any event, the investigation is presently going on. Only at the time of filing of final report, the investigation officer would decide on filing the final report against the petitioner also.

11. I am in full agreement with the objections raised by the learned Additional Public Prosecutor. It is seen that a sum of Rs.53,90,018/- was disbursed towards crop loan waiver to ineligible persons. As already pointed out, some of the applicants were dead long ago. The disbursal of the said amount was based on the certificate issued by the petitioner as the next Level Authority. The Managing Director of the Central Co-operative Society has issued a circular dated 04.07.2016 calling upon the Field Managers and the Field Officers to make proper verification before submitting the proposals for crop loan waiver. Thus great responsibility lay on the petitioner. It is the petitioner, who was entrusted with the actual task of verifying the list prepared by the Secretary of the Society and certifying the same, cannot casually claim that his job was confined to paper verification. If that be so, there was no need for appointing the next Level Committee comprising Circle Supervisor/Field Manager of CCB and Field Officer(Cooperation)/ Cooperative Sub-Registrar(CSR).

12. I am not in a position to agree with the stand taken by the learned Senior counsel with regard to the role to be played by the next Level Committee as contemplated by Clause 13 of the guidelines laid down in G.O.(Ms)No.59 Cooperation, Food and Consumer Protection (CC1) Department, dated 28.06.2016. The Hon'ble Supreme Court in case after case has held that the Courts in exercise of inherent power should be very slow to quash the First Information Report.

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13. This is not the case in which it can be stated that there are no materials against the petitioner herein. The petitioner was definitely a part of the process, in which the list of applications and the list of beneficiaries was scrutinised and finalised. When the scam of this proportion has taken place, the investigation must unearth the truth. It would not be open to this Court to curtail the investigation at this stage. I find no merit in this Criminal Original petition.

14. This Criminal Original petition stands dismissed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

To

1. The Inspector of Police,
   C.C.I.W. Wing,
   Ramanathapuram.
   (Crime No.1 of 2019)

2. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-74682[F] dated 11/07/2019)

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