



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.02.2019

PRONOUNCED ON : 30.08.2019

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CORAM:

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE
Crl.O.P.[MD]No.21768 of 2018
and Crl.MP(MD) Nos.10103 & 10104 of 2018

S.Deivendran : Petitioner/Accused (A3)

Vs.

State by
The Inspector of Police,
CCIW CID,
Ramnad Unit,
Ramanathapuram.
(In Crime No.3 of 2017)

: Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.267 of 2017 on the file of the learned Judicial Magistrate No.1, Ramanathapuram and to quash the same insofar as the petitioner/ third accused herein is concerned.

For Petitioner : Mr.R.Sethu Pandian

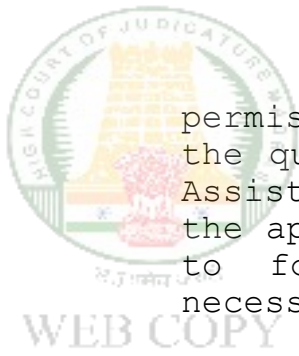
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Criminal side)

O R D E R

The present petition is filed by the third accused to quash the proceedings in CC.No.267 of 2017, pending on the file of the learned Judicial Magistrate No.I, Ramanathapuram.

2. The brief facts are :

- The petitioner was working as General Manager (i/c) of Q-1102, Kamuthi Co-operative Urban Bank Ltd., Kamuthi, Ramanathapuram District. On 09.07.2013, a certain Ayyanar had made an application for loan of Rs.3,00,000/- under the category of loan available to persons with disability. He claimed that he has been running a provision shop. He has produced a quotation for Rs.4,21,665/- and required Rs.3,00,000/- be the



permissible amount that could be given as loan on the value of the quotation. The petitioner herein had made a note to his Assistant Manager to make a spot inspection of the place where the applicant was said to be carrying on his business, and then to follow such procedural requirement such as obtaining necessary security before advancing the loan.

- While so, on 17.07.2013, his Assistant Manager had sanctioned the loan and also disbursed the amount to Ayyanar. The petitioner was not at the branch on that date, as he has to go to Ramanathapuram on an official duty, to attend a meeting convened by the Joint Registrar of the Co-operative Societies.
- Subsequently, an inspection was ordered under Sec.82 of the Tamil Nadu Co-operative Societies Act, 1983. Even in the inspection report, it was noted that the petitioner had only made a note to the Managing Director to sanction the loan amount, and only the Assistant Manager had actually sanctioned the loan. Based on the inspection report surcharge proceedings was initiated under Sec.82 of the Tamil Nadu Co-operative Societies Act and disciplinary action was also inter alia recommended against the petitioner.
- On 05.10.2016, the surcharge proceedings were dropped since the entire loan amount with interest was paid to the Bank. However, a FIR in Crime No.3/2017 came to be preferred by the respondent-police.

3. The learned counsel for the respondent submitted that even the final report and the materials made available by the Investigating Agency, amply indicate that the petitioner was not available in the Bank on 17.07.2013, when the loan was sanctioned and disbursed by the Assistant Manager and that only allegation against the petitioner was that he was negligent in not verifying the records thereafter. He argued that the said conduct as alleged by the Investigating Agency, even if presumed to be true, does not constitute an offence under Sec. 406 and 420 r/w.109 IPC, He, hence seeks quashing the C.C.No.267 of 2017, pending before the Judicial Magistrate Court No.1, Ramanathapuram.

4. Heard the learned Government Advocate appearing for the respondent-police.

5. The only allegation against the petitioner is that he has been negligent in not overseeing the correctness of loan sanctioning process adopted by his subordinate. This would not amount to an abetment of criminal breach of trust, as failure to supervise an act of the subordinate without anything more, will not constitute abetment within the meaning of Sec.109 of IPC.



6. In conclusion, this Court allows this petition and quash the C.C.No.267 of 2017, pending before the Judicial Magistrate Court No.1, Ramanathapuram, as against the petitioner alone. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To,

- 1.The Judicial Magistrate No.1,
Ramanathapuram.
- 2.The Inspector of Police,
CCIW CID, Ramnad Unit,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SETHU PANDIAN, Advocate (SR-84757[F] dated 30/08/2019)

order made in

CrI.O.P.[MD]No.21768 of 2018
30.08.2019

cm
JM/30.09.2019/3P/5C