



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

CrI.O.P(MD).No.24210 and 24211 of 2016
and
CrI.M.P.(MD)Nos.12749 to 12752 of 2016

1.V.Sudhanthiramani ... Petitioner/Accused (11)
in CrI.O.P.(MD)No.24210 of 2016
2.M.Soundararajan ... Petitioner/Accused (10)
in CrI.O.P.(MD)No.24211 of 2016

Vs

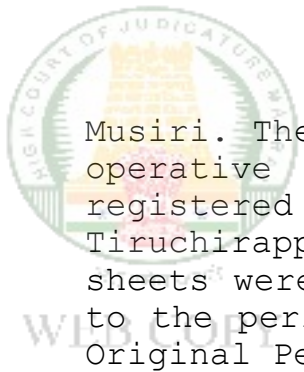
1.The Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Vilupuram (In Charge),
Thanjavur Sub Division.
2.The Inspector of Police,
Commercial Crime Investigation Wing,
Tiruchirappalli. (Ref.Crime No.1 of 2010)
3.K.Athmanathan
The Deputy Registrar of Co-operative Societies,
Musiri Circle,
Tiruchirappalli District. ... Respondents in both petitions

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C. to call for the records in C.C.No.101 of 2016, on the file of the learned Judicial Magistrate, Musiri and quash the charge sheet and consequential all further proceedings as against the petitioners.

For Petitioners : Mr.D.Senthil
(in both petitions)
For Respondents : Mr.A.Robinson
(in both petitions) Government Advocate (CrI. side)

COMMON ORDER

The petitioners herein are figuring as A-10 and A-11 in C.C.No.101 of 2016, on the file of the learned Judicial Magistrate,
<https://hcservices.ecourts.gov.in/hcservices/>



Musiri. The case involves a misappropriation of the funds of the Co-operative Society. In this regard, Crime No.1 of 2010 was registered on the file of the Commercial Crime Investigation Wing, Tiruchirappalli. Investigation was conducted and a number of charge sheets were filed for different periods. The case on hand pertains to the period in the year 2011. To quash the same, there Criminal Original Petitions came to be filed.

2.Heard the learned counsel on either side.

3.The petitioners' counsel points out that the petitioners are only the Co-operative Audit Officers. They had been implicated and arrayed as accused in other Calender Cases. All those proceedings were quashed as far as the petitioners are concerned by a learned Judge of this Court vide order dated 06.11.2019 in Crl.O.P.(MD) Nos.8482 to 8494 of 2018.

4.I am satisfied that the case on hand is squarely covered by the aforesaid order. The learned Judge has after referring to a catena of decisions held that mere negligence in the matter of discharge of official duties is not sufficient to attract penal liability and that there must be dishonest misappropriation of property. In this case, the misappropriation was committed by the employees of the society. The petitioners herein did not discover the fraud committed by the said employees. It may be an act of negligence. But then, that by itself is not sufficient to fasten penal liability on the petitioners herein. When the proceedings against the petitioners herein in C.C.Nos.98,99, 102, 105 to 115 of 2016, pending on the learned Judicial Magistrate, Musiri, have already been quashed, there is simply no justification in keeping the prosecution in C.C.No.101 of 2016 alone alive. Therefore, the said proceedings stand quashed insofar as the petitioners are concerned. It is made clear that the accused will not be entitled to take advantage of the orders quashing the proceedings insofar as the petitioners are concerned.

5.With these observations, these Criminal Original Petitions are allowed and the impugned proceedings stand quashed as far as the petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)



To

- 1.The Judicial Magistrate, Musiri.
- 2.The Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Vilupuram (In Charge),
Thanjavur Sub Division.
- 3.The Inspector of Police,
Commercial Crime Investigation Wing,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD) . Nos.24210 and 24211 of 2016
02.12.2019

sjj

SDS (10.03.2020) 3P-5C