



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **04.09.2019**

CORAM:

THE HON'BLE MR.JUSTICE **N. ANAND VENKATESH**

Crl.O.P.No.6276 of 2017

and

Crl.M.P(MD)Nos.4214 and 4162 of 2017

Muthu Meenal

... Petitioner

Vs.

State through
The Inspector of Police,
C.C.I.W., Madurai City,
C.C.No.7 of 2015 in
Crime No.1 of 2014

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to allow this Criminal Original Petition by setting aside the order dated 24.04.2017 made in Criminal Revision Petition No.44 of 2016, on the file of I Additional District and Session Judge, Madurai, which confirmed the order dated 26.05.2015, in Cr.M.P.No.3673 of 2015 on the file of Judicial Magistrate No.III, Madurai, in connection with C.C.No.8 of 2015.

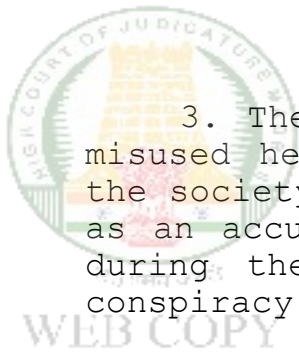
For Petitioner : Mr.S.Balamurugan

For Respondent : Mr.M.Chandrasekaran
Additional Public Prosecutor

O R D E R

This petition has been filed against the order passed by the Court below confirming the order passed by the trial Court dismissing the discharge petition filed by the petitioner.

2. The respondent police have filed a final report before the Court below against five accused persons for an offence under Sections 408, 467, 468, 471, 477(A) and 120(B) r/w 109 of IPC. The petitioner has been arrayed as A2.



3. The case of the prosecution is that the accused person has misused her office and has misappropriated the money belonging to the society to the tune of Rs.62,000/-. The petitioner has been made as an accused on the ground that she was working as an Accountant during the relevant point of time and she has entered into a conspiracy along with the other accused persons.

4. The learned counsel for the petitioner submitted that the petitioner was not entrusted with any cash and the entire complaint was given, based on the enquiry report filed under Section 81 of the Tamil Nadu Co-operative Societies Act as against A1. The learned counsel further submitted that even if the case of the prosecution is taken as it is, there is only a negligence that can be attributed as against the petitioner. Therefore, the learned counsel submitted that the petitioner has to be discharged from the case and she need not undergo the ordeal of facing the trial.

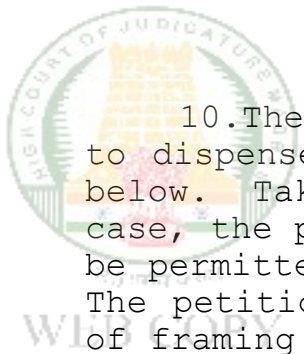
5. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that there are *prima facie* materials available against all the accused persons including the petitioner. He further submitted that at this stage of framing of the charges, strong suspicion is enough and the factual issue that has been raised cannot be considered at this stage and the same has to be taken into consideration only during the course of trial. He further submitted that there are no grounds to interfere with the order passed by the Court below and the Criminal Original Petition is liable to be dismissed.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. This Court in exercise of its jurisdiction under Section 482 of Cr.P.C. cannot treat this petition like a second revision petition since the same is barred U/s.397(2) of Cr.P.C. The scope of interference is very limited and this Court in exercise of its jurisdiction under Section 482 of Cr.P.C., can only examine as to whether the proceedings is an abuse of process of Court.

8. Both the Courts below have taken into consideration the entire materials that are available against the petitioner and came to the conclusion that there are materials available for framing charges against the petitioners. This Court does not find any perversity in the orders passed by the Court below.

9. It will always open to the petitioner to raise all the grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law. The findings made in the final report filed under Section 81 of the Tamil Nadu Co-operative Societies Act will not have a binding effect on the criminal Court and at the best, it has only a persuasive value and it will also be taken into consideration as one more material by the



10.The learned counsel for the petitioner requested the Court to dispense with the appearance of the petitioner before the Court below. Taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with and she shall be permitted to be represented by a counsel before the Court below. The petitioner shall be present before the Court below at the time of framing of the charges, at the time of questioning under Section 313 Cr.P.C., and at the time of passing of the judgment. The learned counsel representing the petitioner shall cross examine the witnesses on the same day they are examined in chief and the petitioner shall not dispute the identity of any witnesses.

11. In the result, this Criminal Original Petition is dismissed and the learned I Additional District and Session Judge, Madurai, is directed to complete the proceedings within a period of four months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The I Additional District and Session Judge,
Madurai.

2.The Judicial Magistrate No.III,
Madurai.

3.The Inspector of Police,
C.C.I.W, Madurai City.

COPY TO:

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

+1 CC to M/s.S. BALAMURUGAN, Advocate (SR-85369[F] dated 05/09/2019)

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vsd

JM/04.10.2019/3P/6C