

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.O.P.No.4917 of 2018
in Crl.M.P.No.2442 of 2018

R.Jayapandian,
No.371, Attrankarai Street,
Thazhaikudi,
Ammayappan - 613 701,
Tiruvarur District. ... Petitioner/Accused

Vs.

1.State represented by
The Inspector of Police,
Tiruvarur Taluk Police Station,
Tiruvarur. ... Respondent/Complainant

2.Lakshmi ... Respondent/de facto
complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records pertaining to the Crime No.136 of 2017
pending on the file of the first respondent and quash the same.

For Petitioner : Mr.Swarnam J Rajagopalan

For R1 : Mrs.P.Kritika Kamal
Government Advocate
(Crl.Side)

For R2 : No Appearance

O R D E R

This case is taken up through video conferencing.

2. This criminal original petition is filed seeking to
call for the records pertaining to the Crime No.136 of 2017
pending on the file of the first respondent and quash the same.

3. On the complaint lodged by Lakshmi, Assistant
Supervisor in Post Office, the police registered a case in Crime

No.136 of 2017 on 04.05.2017 for the offences under Sections 408 and 420 IPC, against the petitioner herein, for quashing which, this petition has been filed.

4. Heard Mr.Swarnam J Rajagopalan, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the first respondent/State.

5. A reading of the FIR averments show that the petitioner was employed as Assistant Post Master in Mangudi Post Office and he had defalcated various amounts totalling Rs.15,947/- and when it was found out, he repaid the amounts on 04.07.2016 and 03.08.2016.

6. The learned counsel for the petitioner submitted that when the FIR itself discloses that the petitioner had repaid the amounts, no useful purpose will be served by keeping the investigation pending.

7. Per contra, the learned Government Advocate (Crl.Side) submitted that when the FIR discloses the commission of cognizable offence, the same cannot be quashed on the ground that the defalcated amount has been repaid by the accused.

8. This Court gave its anxious consideration to the rival submissions.

9. The explanation to Section 403 IPC reads as follows:

"Explanation I.—A dishonest misappropriation for a time only is a misappropriation with the meaning of this section."

10. In view of the aforesaid explanation, even temporary defalcation is an offence. That apart, the petitioner was working as Assistant Post Master and as a public servant, he is required to maintain utmost integrity while discharging his duties. The petitioner appears to have misappropriated the amounts that was deposited by the persons, who were holding accounts in the post office.

11. Taking into consideration the serious nature of the allegations in the FIR, the prosecution cannot be quashed.

As a result, this criminal original petition is dismissed. The first respondent/police is directed to complete the investigation within six months from the date of receipt of a

copy of this order and file either final report or closure report as the case may be before the jurisdictional Court concerned. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar(CS III)

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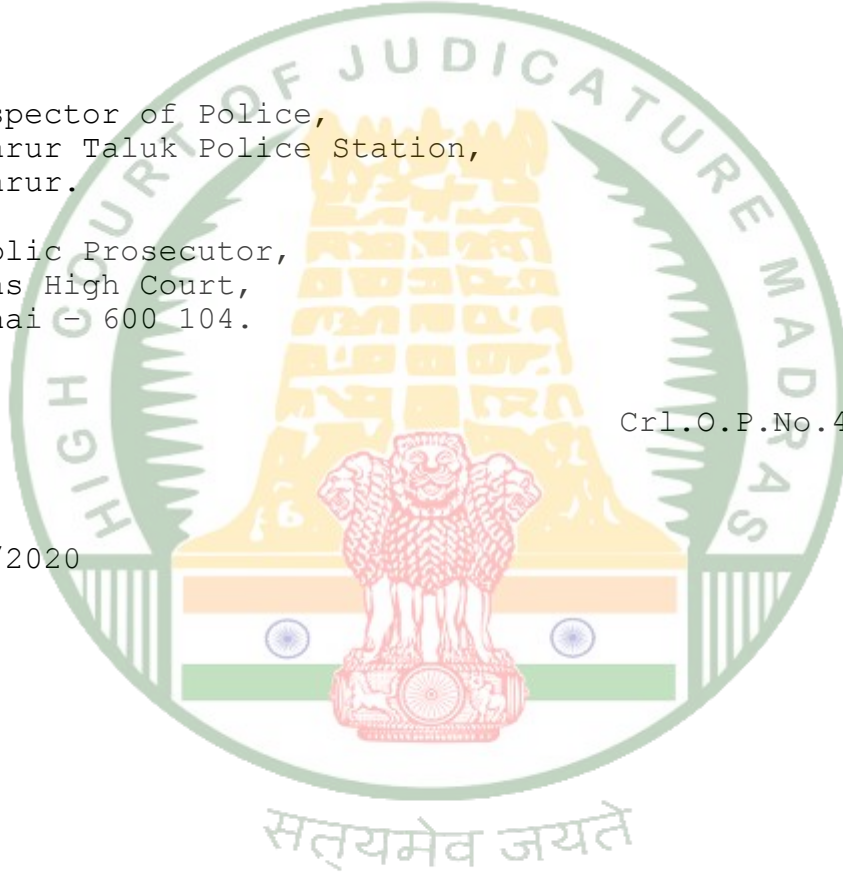
Sub Assistant Registrar

To

1. The Inspector of Police,
Tiruvarur Taluk Police Station,
Tiruvarur.
2. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Crl.O.P.No.4917 of 2018

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