



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.8422 of 2016 and
Crl.M.P. (MD)Nos.4105 & 4106 of 2016

Idhayakani

... Petitioner/Accused No.5

Vs.

1. The State represented by,
The Inspector of Police,
Kandavarayanpatti police station,
Thiruppathur,
Sivagangai District.

... 1st Respondent/Complainant

2. The Block Development Officer,
Thiruppathur,
Sivagangai District.

... 2nd Respondent/Official Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records and quash the charge sheet in C.C.No.23 of 2016 on the file of the District Munsif cum Judicial Magistrate Court, Thiruppathur, Sivagangai District in so far as the petitioner is concerned.

For Petitioner : Mr.RM.Arun Swaminathan

For R-1 : Mr.A.Robinson,
Government Advocate(Crl. Side).

O R D E R

The petitioner is shown as accused No.5 in C.C.No.23 of 2016 on the file of the District Munsif cum Judicial Magistrate, Thiruppathur, for the offences under Sections 406, 409, 420, 465, 468, 120(B) @ 379 of I.P.C.

2. The first accused in this case is the husband of the petitioner herein. He was the Secretary of Manampatti Village Panchayat. Accused No.2 is the President of the local body. Accused No.3 is the Vice President of the local body. Accused No.4 was doing contractual works for the local body. The petitioner herein is figuring as accused No.5.



3. The case of the prosecution is that the Panchayat funds to the tune of Rs.41,300/- were deposited in the bank account of the petitioner herein and that the same was later withdrawn. The Panchayat funds were also otherwise misappropriated and siphoned off. Hence, Crime No.101 of 2013 was registered on the file of Kandavarayanpatti police station. The matter was investigated and final report has since been filed.

4. The learned counsel appearing for the petitioner states that in the final report, no specific charge has been framed against the petitioner herein. He would point out that the petitioner's husband/accused No.1 had since passed away. Following his demise, the petitioner had paid the entire amount to the Panchayat account. In as much as the financial loss caused to the Panchayat has been made good, the petitioner's counsel would contend that there is no necessity to continue the prosecution.

5. I am unable to agree with the said submission of the petitioner's counsel.

6. As rightly pointed out by the learned Government Advocate (Crl. Side), the charges are ultimately framed only by the Court concerned and that the final report is only the report containing all the materials collected during the investigation. Merely because, there is no specific charge against the petitioner set out in the final report, the impugned prosecution cannot be quashed.

7. It is true that the petitioner had since remitted the misappropriated amount to the Panchayat. But then, the subsequent remittance will not efface the crime already committed. It is seen that the Panchayat funds were deposited in the account of the petitioner. The petitioner's counsel would claim that the petitioner is an innocent person and that the account itself was managed by her late husband.

8. This is a matter for trial and it cannot be adjudicated in a quash petition. Therefore, leaving open all the petitioner's contentions, the criminal original petition stands dismissed. It is made clear that this Court has not gone into the merits of the matter. All the contentions and the defences of the petitioner are left open. The petitioner is a lady. She is said to be the Panchayat Secretary in another local body. Therefore, the petitioner's personal appearance before the Court below is dispensed with.

9. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges of examination under Section 313 of Cr.P.C., and at



the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through her counsel. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To:

1. The District Munsif cum Judicial Magistrate,
Thiruppathur, Sivagangai District.
2. The Inspector of Police,
Kandavarayanpatti police station,
Thiruppathur, Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.RM.ARUNSWAMINATHAN, Advocate (SR-329[F] dated 06/01/2020)

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