

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.02.2021

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.NO.3397 OF 2013

AND

M.P.NOS.1 OF 2013 AND 1 OF 2014

M.Sulochana,  
U.G.Assistant.

.. Appellant/Respondent

Vs.

The State represented by  
The Deputy Director of Health Service,  
Dr.G.Ragunathan,  
Office of the Deputy Director of Health Services,  
Erode.

.. Respondent/Complainant

PRAYER :

Civil Miscellaneous Appeal is filed under Order 41 Rule 96 of C.P.C and Section 11 of Criminal Law (Amendment) Ordinance 1994, praying to set aside the order dated 16.04.2013 passed in Crl.M.P.No.1208 of 2010, on the file of the Principal District and Sessions Judge, Erode and District by allowing the present appeal.

For Appellants : Mr.I.C.Vasudevan

For Respondents : Mr.Y.T.Aravind Gosh  
Additional Government Pleader

J U D G M E N T

The appellant herein is the respondent in Crl.M.P.No.1208 of 2010 filed by the complainant seeking permission to attach the property of appellant/respondent under Section 11 of Criminal Law (Amendment) Ordinance 1994.

2. The respondent also contested the petition. After full enquiry, the trial Judge allowed the application by attaching the property of the respondent.

3. Aggrieved that order, the accused/respondent preferred this appeal.

4. The facts of the case as follows:

While the respondent was working as Upgraded Assistant at Primary Health Centre, T.N.Palayam, Erode District, she was deputed to the Primary Health Centre, Kasipalayam, Erode District, for the period from 01.04.1987 to 30.04.1997. While so, it was alleged that the internal audit party of the office of the Director of Public Health and Preventive Medicines found that the appellant had indulged in misappropriation of Government money to the tune of Rs.18,41,304/-. Immediately, she was placed under suspension. Thereafter, disciplinary action also initiated under Rule 17(b) of Tamil Nadu Civil Services. Apart from that, a criminal case was also registered by the District Crime Branch, Erode, under Sections 409, 420, 477 and 477(A) of IPC. During the pendency of the investigation, she deposited a sum of Rs.7,13,074/- to the Government Account. But to recovery of the balance amount, the investigation authorities advised to attach the properties, which was purchased by utilising the misappropriated funds. In order to safeguard the recovery dues, the complainant filed an application for attachment, which was allowed by the trial Judge. But the accused contended that as per the charge sheet filed by the police her involvement is restricted with amount of Rs.8,578/- but already she remitted a sum of Rs.7,13,074/- to the Government Account. Thereby, she raised objection to attach her valuable immovable properties.

5. As per the internal audit, the appellant indulged in misappropriation of money to the tune of Rs.18,41,304/-. The trial Judge in order to safeguard the recovery procedures made the attachment order absolute with regard to the properties belong to this appellant. Aggrieved that she preferred this appeal.

6. Point for consideration:

Whether the trial Court without appreciating the amount of Rs.7,13,074/- remitted by the appellant to the Government account erroneously ordered attachment over the properties ignoring the charge sheet filed to the tune of Rs.8,578/-.

7. It is admitted fact that based upon the internal audit report investigation initiated against this appellant for misappropriation of the amount of Rs.18,41,304/- said to be indulged, while she was working as an Assistant in Primary Health Centre, Erode from the period 1987 - 1997.

8. It is also admitted fact that she was placed immediately under suspension and both criminal disciplinary proceedings were initiated against her. According to this appellant, as per the

charge sheet, the charge was only for a sum of Rs.8,578/- but she already remitted a sum of Rs.4,13,074/- to Government account. So, she preferred this appeal prayed to raise the attachment over the properties for the reason that already excess amount was remitted by her to the Government account.

9. By way of reply, the Additional Government Pleader submits that only for the period of 1987 to 1992, the charge sheet filed before the trial Court at the time of attachment, but now the trial was begun, part heard and posted the matter on 15.02.2021 for further cross examination of witnesses. So, as per the submission made by the learned Additional Government Pleader, the trial in the case begun and part heard before the trial Court. Admittedly, as per the internal audit, the amount of misappropriation with regard to the accused/appellant comes around Rs.18,41,304/-. She remitted only Rs.7,13,074/- and the recovery due is pending, subject to the outcome of the verdict of the trial Court. Therefore, if the order of attachment is raised, the Government will be put to much hardship for the recovery process. Therefore, the objection raised by the appellant with regard to attachment over the property passed by the trial Judge is unsustainable one.

10. Considering all these facts, the Civil Miscellaneous Appeal is dismissed as no merits. The order passed by the trial judge is confirmed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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The Principal District and Sessions Judge,  
Principal District and Sessions Court,  
Erode.

+1cc to Additional Government Pleader, in S.R.No.6584

C.M.A.No.3397 of 2013

RSV(CO)  
CS/22/06/2021