



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.5547 of 2021

and

Crl.M.P. (MD)Nos.3182 & 3183 of 2021

WEB COPY

K.Mathivanan

... Petitioner/5th accused

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 2014) ... Respondents 1&2/Complainants

3.K.Athmanathan

... Respondent 3/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to call for records in C.C.No.106 of 2016 on the file of the Judicial Magistrate, Musiri and quash the charge sheet and consequential all further proceedings as against the petitioner.

For Petitioner : Mr.D.Shanmugha Rajasethupathi
for Mr.D.Senthil

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor for R1&R2

O R D E R

The petitioner herein is figuring as fifth accused in C.C.No.106 of 2016 on the file of the Judicial Magistrate, Musiri. The petitioner was the Special Officer of Thulaiyanatham Primary Agricultural Co-operative Credit Society during 2010-11. Alleging that society funds have been misappropriated, Crime No.1 of 2014 came to be registered on the file of the Inspector of Police, Commercial Crime Investigation Wing, Tiruchirappalli. The matter was investigated and final report came to be laid against the number of persons. Out of them, one Surendran, who was the Co-operative Auditor, filed Crl.O.P.(MD)No.13212 of 2017. By order dated 15.11.2019, the learned Judge of this Court quashed the proceedings.

2. I am more than satisfied that the petitioner is identically placed and hence, the aforesaid order dated 15.11.2019 in Crl.O.P. (MD)No.13212 of 2017 comes to his rescue. It was held in that judgment that mere negligence in the matter of discharge of duties cannot attract any criminal liability. The petitioner did not



misappropriate the society's funds. It appears to have been done by the employees of the societies. The petitioner was probably negligent. Negligence by itself, is not sufficient.

3. Therefore, the impugned proceedings is quashed insofar as the petitioner is concerned. The jurisdictional Magistrate is directed to forthwith serve the copies on the remaining accused and conclude the proceedings on merits and in accordance with law as early as possible.

4. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csn/mga

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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.

+1 CC to M/s.D.SENTHIL, Advocate (SR-35106[F] dated 19/11/2021)

Crl.O.P. (MD)No.5547 of 2021

and

Crl.M.P. (MD)Nos.3182 & 3183 of 2021

17.11.2021

KM(CO)

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