



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 06.10.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

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Crl.O.P. (MD)No.5907 of 2021
and
Crl.MP(MD)Nos.3395 & 3396 of 2021

N.Vanathan,
Clerk,
R963, Thulaiyanatham Primary Agricultural
Co-operative Credit Society,
Trichy District. ... Petitioner/4th Accused
Vs.

1.The Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Vilupuram (In-charge),
Thanjavur Sub-Division. ... Respondent/Complainant

2.The Inspector of Police,
Commercial Crime Investigation Wing,
Tiruchirappalli.
(Reg: Crime No.1/2014) ... Respondent/Complainant

3.K.Athmanathan,
The Deputy Registrar of Co-operative Societies,
Musiri Circle,
Tiruchirappalli District. ... Respondent/Defacto Complainant

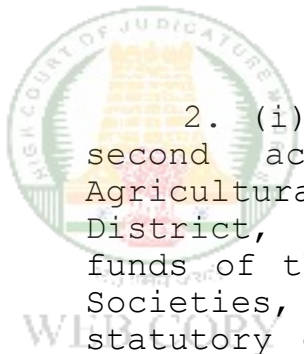
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in C.C.No.104 of 2016 on the file of the learned Judicial Magistrate, Musiri and quash the charge sheet and consequential all further proceedings as against the petitioner.

For Petitioner : Mr.D.Shanmugaraya Sethupathi
for Mr.D.Senthil

For R1 & R2 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the charge sheet in C.C.No.104 of 2016 on the file of the learned Judicial Magistrate, Musiri.



2. (i) The case of the prosecution is that while the first and second accused were working in the Thulaiyanatham Primary Agricultural Co-operative Credit Society, Musiri, Tiruchirappalli District, they had forged the documents and misappropriated the funds of the Society. So, the Deputy Registrar of the Co-operative Societies, directed the Co-operative Sub Registrar, to conduct a statutory enquiry, under Section 81 of the Tamilnadu Co-operative Societies Act. As per the direction of the above said Deputy Registrar, an enquiry was conducted by the Co-operative Sub Registrar and he also submitted a report. From the report, it was found that the then Secretary and the other employees of the Society, forged the documents and misappropriated the funds of the Society.

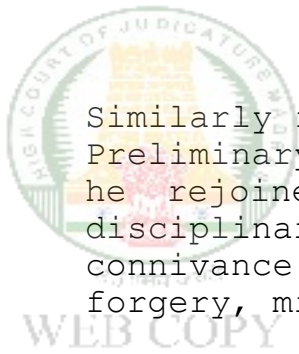
(ii) On the basis of the above said report, the third respondent lodged a complaint before the second respondent police. Based upon which, investigation has been undertaken by filing the First Information Report and a final report was also filed by adding the petitioner in the above said criminal offence.

3. Challenging the above said final report, this petition is filed solely on the ground that during the relevant period of misappropriation, the petitioner was not working in the above said Thulaiyanatham Primary Agricultural Co-operative Credit Society, Musiri, Tiruchirappalli District, and he was on other duty. Further, none of the statements that have been recorded during the course of investigation implicated the involvement of the petitioner.

4. Heard both sides.

5. On going through the records and after hearing the learned counsel for the petitioner, this Court is of the considered view that the petitioner has been unnecessarily victimized for no fault of him. He became the whistle-blower. Soon after rejoining in the concerned Society, he did exposed and informed the higher officials about the misdeeds that have been committed by the persons, who were in-charge of the day-to-day affairs of the Society. Twice he has been placed under suspension for no fault of him as mentioned earlier and he was forced to approach this Court, by way of filing WP(MD).No.16151 of 2015 seeking quashment of suspension order, dated 12.08.2015, and the same was quashed by this Court, by order, dated 31.01.2018 stating that the petitioner cannot be suspended for the second time on the same set of facts. Ultimately, the proceedings that have been initiated against the petitioner alleging that he failed in his duty to inform the higher officials about the misdeeds of the co-accused and actively connived with them in the whole process.

6. The simple case of the petitioner is that the alleged transaction took place from 25.07.2007 to 10.09.2013. This <https://hccservices.courts.gov.in/hccservices/> on other duty from 25.07.2007 to 31.03.2010.



Similarly from 01.04.2010 to 07.02.2013, he was working in Thumbalam Preliminary Agricultural Co-operative Society. On 08.02.2013, only he rejoined in the present Society. So, his case before the disciplinary proceedings is that he was in no way responsible for connivance with the other accused persons, during the course of forgery, misdeeds etc., from 25.07.2007 to 10.09.2013.

7.The Enquiry Officer after going through all the records and evidence, came to a conclusion that only the petitioner brought to light of the above said misdeeds after joining in the Society. It is also been held that it is very unfortunate that the person, who exposed the misdeed, has been victimised for his honesty. While so, he has to be discharged from the charges, that has been framed against him.

8. As mentioned earlier, he has been suspended for the second time and the same was also set aside. So, when there is a categorical finding by the Disciplinary Authorities to the effect that during the relevant time, the petitioner was not working in the Society, then how the final report came to be filed against the petitioner, adding him under Sections 408, 467, 465, 468, 471, 477A & 120 (b) IPC r/w 34 IPC, absolutely, there is no material on record to show that he actively connived with the co-accused persons for committing the above said offence.

9. As mentioned earlier, he was not at all in the picture during the relevant period. It appears that by mechanical application of mind, the final report came to be filed.

10. I am of the considered view that it is a fittest case to quash the proceedings against the petitioner, without going into the other aspects that has been raised by the petitioner and without referring to the judgment, cited by him.

11. Accordingly, the charge sheet in C.C.No.104 of 2016, on the file of the learned Judicial Magistrate, Musiri, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

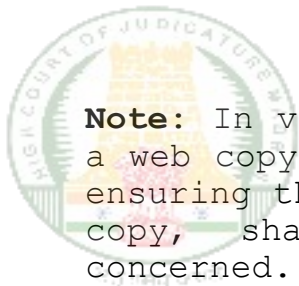
Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

dss



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.

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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-31558[F] dated 07/10/2021)

Crl.O.P. (MD)No.5907 of 2021

and

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RD/SKN(24.11.2021) 4P 6C