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CRL.O.P.(MD)NO.13623 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.13623 of 2021 and
CRL.M.P.(MD)Nos.7098 & 7100 of 2021

S.Rajendran

... Petitioner / Sole Accused

Vs.

1. The State rep. By,
The Inspector of Police,
Vadipatti police station,
Madurai District.
(Crime No.6 of 2013)

... Respondent / Complainant

2. S.Meenakshi,
Inspector of Postal,
Solavandhan Sub Division,
Vadipatti,
Madurai District.

... Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in C.C.No.10 of 2021 pending on the file of the learned Judicial Magistrate, Vaidpatti, Madurai District and quash the same.

For Petitioner : Mr.A.Kesavan
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

O R D E R

This criminal original petition has been filed to quash the proceedings in C.C.No.10 of 2021 on the file of the Judicial Magistrate, Vadipatti, Madurai District.

2. The petitioner is facing trial for the offences under Sections 409, 468, 471 and 420 of I.P.C. The petitioner was an employee of the Postal Department. During the relevant time, the petitioner is alleged to have misappropriated the amounts deposited by the customers. According to the petitioner, there was a short fall and that he had made good the same. The occurrence had taken place way back in the year 2009. Only in the year 2013 First Information Report was registered and the final report was filed some eight years later.

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3. The petitioner's counsel would state that without obtaining sanction under Section 197 of Cr.P.C., cognizance of the offences had been taken.

4. I am not persuaded by the aforesaid submission of the learned counsel appearing for the petitioner. As rightly pointed out by the learned Additional Public Prosecutor, sanction under Section 197 of Cr.P.C. will be required, only if the offence in question was committed in the course of discharge of one's official duty. The person concerned must be removable only by the Government. The petitioner was employed only as a postmaster. Committing misappropriation cannot be termed as part of one's official duties. Section 197 of Cr.P.C. will not apply to the petitioner's case.

5. Leaving open all the contentions and the defences of the petitioner, this criminal original petition is dismissed. The petitioner is said to be already retired from his service. His personal appearance before the Court below is dispensed with. However, the petitioner has to appear before the Court below on the following three occasions:-

- i) To answer the charges,
- ii) at the time of examination under Section 313 of Cr.P.C. and
- iii) at the time of pronouncement of Judgment.

The petitioner also will have to appear when his presence is insisted upon by the trial Court and on all other occasions, the petitioner can be represented by his counsel. If the petitioner's counsel also fails to appear, the benefit of this order will stand vacated automatically. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.D.I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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,
Vadipatti, Madurai District.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Inspector of Police,
Vadipatti police station,
Madurai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Cr1.O.P.(MD)No.13623 of 2021
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