



CRL.O.P.No.11056 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11056 of 2018

T.Vedagiri

... Petitioner/A-1

Versus

1.State by

The Inspector of Police,
Acharappakkam Police Station,
Acharappakkam,
Kancheepuram District.
(Crime No.46 of 2007)

2.R.Vanitha,

Deputy Registrar of Co-operative Societies,
Full Additional Incharge,
Maduranthagam,
Kancheepuram District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the entire records concerned in Cr.No.46 of 2007 on the file of Inspector of Police, Acharappakkam Police Station,



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Acharappakkam, Kancheepuram District and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.Baskaran
Government Advocate (Crl. Side)

ORDER

This petition has been filed to quash the F.I.R. in Crime No.46 of 2007 against the petitioner/A-1 pending on the file of the first respondent Police.

2. The petitioner/Accused No.1 in Crime No.46 of 2007 for offence under Section 409 I.P.C., has filed this quash petition.

3. The gist of the complaint is that on 25.01.2007, a complaint received from Deputy Registrar of Co-operative Society, Madhurantagam by post, complaining that in GC2354 Primary Agricultural Co-operative Credit Society, Nerkunam, there were some financial illegalities and



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enquiry under Section 81 of Tamilnadu Co-operative Societies Act initiated in Na.Ka.No.2119/2003 dated 08.04.1993. The enquiry officer given his report on 09.02.2004 based on which, the complaint was lodged to the Superintendent of Police, Commercial Crime Investigation Wing (CCIW), Kancheepuram to register a case. Thereafter, a reply received from CCIW, Chennai in Na.Ka.No.6667/C2 CCIW/05 dated 07.06.2005 informing that on perusal of the Enquiry Officer's report, it is seen that six persons involved in misappropriation of Rs.1,65,629/- in the Society's fund. Further it was found that of the said amount, a sum of Rs.1,19,346/- was not misappropriated and the amount misappropriated is only around Rs.49,121/-, hence, it is not within the financial jurisdiction of CCIW and local police can investigate the same and hence, returned. Thereafter, the present complaint lodged, F.I.R. registered against six persons.



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4. In the complaint it is seen that drought relief fund not paid to the beneficiaries, on the other hand, false entries made in the records of the Society by the petitioner, who was the then Secretary and also made entries in the name of dead persons. Hence, case registered and investigation commenced. As regards the other accused, they aided and abetted the petitioner and investigation is pending.

5. The contention of the petitioner is that the petitioner employed as Secretary in GC2354, Nerkunam Primary Agricultural Co-operative Credit Society for several years. The Deputy Registrar of Co-operative Society lodged a complaint without looking into the details and enquiry under Section 81 of the Act was ordered and thereafter, surcharge proceedings under Section 87 of the Act was initiated. The petitioner, after surcharge proceedings, paid the entire amount of Rs.1,65,629/- on 24.06.2008 and as such the society has not suffered any loss of its funds.



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The Society covers 51 villagers, enumeration of members and their requirements had been carried out by the staff in the Society, who had by oversight or for some other reason not properly recorded in the registers. The petitioner as Secretary has to go by the particulars furnished by the field staff, for which, the petitioner cannot be criminally prosecuted. At most the petitioner can be said to be committed dereliction of duties. He further submitted that the complaint of the Deputy Registrar initially forwarded to CCIW as though there was an improper accounting of Rs.1,65,629/- and thereafter, CCIW on verification of the documents, returned the complaint, but the Deputy Registrar not properly verified the documents and mechanically lodged a complaint. He further submitted that in surcharge proceedings under Section 87 of the Act, the finding given is that the petitioner lacked control of the staff and committed dereliction of duties and there have been loss of interest due to improper accounting. The petitioner paid the entire amount, produced the surcharge proceedings



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report in Na.Ka.No.2753/04/Ku dated 09.05.2006, payment of surcharge amount in receipt No.376393 dated 24.06.2008 for a sum of Rs.1,65,629/-.

Hence, the learned counsel prayed for quashing of the proceedings against the petitioner.

6. Learned Government Advocate (Crl. Side) appearing for the respondents produced the report received from the Deputy Registrar, Maduranthagam Branch in Na.Ka.No.2753/2004/A3 dated 12.04.2022 in which, it is seen that enquiry under Section 81 of the Act conducted on 04.08.2003. Thereafter, following the same, surcharge proceedings under Section 87 of the Act in Na.Ka.No.2753/04/Ku dated 09.05.2006 initiated against the petitioner and one P.Ramakrishnan, the then Panchayat President. The drought reliefs were distributed by the Panchayat President. The Panchayat President in collusion with the petitioner/Secretary of the Society, misappropriated the amount. He submitted that the misappropriated amount of Rs.1,65,629/- was paid to the Society in



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Receipt No.376393 dated 24.06.2008 and as such the said Society has not suffered any loss. Further added that, in this case, F.I.R. registered against six persons in the year 2007 and thereafter only the surcharge amount paid in the year 2008. He further submitted that the enquiry report confirmed that the amount of Rs.1,19,346/- has not been misappropriated and it has been accounted properly.

7. Considering the submissions and on a perusal of materials it is seen that, in this case, enquiry under Section 81 of the Act conducted and thereafter surcharge proceedings under Section 87 of the Act initiated and the petitioner, the Secretary of the Society and Ramakrishnan, the Panchayat President were directed to pay the surcharge amount of Rs.1,65,629/-, of which, both were liable to pay Rs.1,19,346/- either jointly or severally. Apart from that, the petitioner was directed to pay the amount of Rs.46,283/-. Thus, in total, a sum of Rs.1,65,629/- paid to the Society account in Receipt No.376393 dated 24.06.2008. The interest amount of



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Rs.12,450/- also paid earlier. The Society has not suffered any loss. It is seen that the drought relief was issued on the recommendation of the Panchayat President and bank staff, who distributed the relief to the persons identified by the Panchayat President. The petitioner as Secretary stationed in the bank, recorded particulars furnished by the Panchayat President and his field staff. The petitioner relied upon the particulars furnished by them. The petitioner was Secretary of the Society under which, 51 beneficiaries were covered and necessarily petitioner has to rely upon the subordinates and others. Now the entire amount has been paid to the Society. The Society has not suffered any loss. The case is pending from the year 2007. In view of the same, this Court finds that no purpose would be served further keeping the F.I.R. Pending, which would be nothing but abuse of process of law. Hence, this Court is inclined to quash the proceedings against the petitioner as well as the other accused.



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8. Accordingly, this Criminal Original Petition is allowed and the proceedings in Crime No.46 of 2007 pending on the file of Inspector of Police, Acharappakkam Police Station, Acharappakkam, Kancheepuram District against the petitioner/A-1 as well as the other accused are hereby quashed.

11.11.2022

Index: Yes/No

Internet: Yes/No

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To

1.The Inspector of Police,
Acharappakkam Police Station,
Acharappakkam,
Kancheepuram District.

2.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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