



WEB COPY



Crl.RC.No.55 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

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THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

Crl.RC.No.55 of 2018

S.Doraiswamy

.. Petitioner

Vs.

1. The State represented by:
The Inspector of Police,
City Crime Branch,
Coimbatore.

2. The Commissioner of Police,
Coimbatore City,
Coimbatore.

... Respondent

Prayer: Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C., to call for the records in Final Report No.6 of 2014 in R.C.S.No.3 of 2014 in Crime No.46 of 2004, pending on the file of the Judicial Magistrate No.1, Coimbatore and set aside the order passed in R.C.S.No.3 of 2014 in Crime No.46 of 2004 dated 14.10.2017, passed by the learned Judicial Magistrate No.1, Coimbatore and direct the 2nd respondent to conduct the investigation under the supervision of a senior Police Officer and file the final report in accordance with law.

For Petitioner

:: Mr.P.Suresh



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For Respondent

:: Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This revision has been filed challenging the order passed in R.C.S.No.3 of 2014 in Crime No.46 of 2004, on the file of the Judicial Magistrate No.1, Coimbatore, thereby dismissing the protest petition filed by the petitioner and accepted the closure report filed by the respondent herein.

2. The petitioner lodged a complaint before the Commissioner of Police, Coimbatore alleging that he is the permanent trustee of Sowdeshwari Charitable trust. On scrutiny, he found that the accused persons have misappropriated the trust money to the tune of Rs.16,00,000/- namely collection of Rs.11,00,000/- towards procuring uniforms and books and selling it to the students during the period 1997 to 2003 and collection of Rs.5,07,200/- towards building fund during the year 2003 to 2004. It was registered in Crime No.46 of 2004 for the offence punishable under Section 409 and 408 IPC. After completion of the investigation, the case was closed as mistake of facts. Therefore, the petitioner was duly served referred charge



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sheet notice on 12.03.2006. On receipt of the same, the petitioner filed a protest petition in C.M.P.No.8111 of 2006 before the learned Judicial Magistrate No.I, Coimbatore. The learned Magistrate, after considering the protest petition vide order dated 11.09.2007, had directed the first respondent to conduct further investigation and file a final report. In pursuant to the order, the respondent conducted further investigation and re-examined the witnesses and again found that the F.I.R itself had been registered mistakenly and closed the case as mistake of facts on 05.04.2011. Again the petitioner was served referred charge sheet notice.

3. Aggrieved by the same, the petitioner file another protest petition in C.M.P.No.2227 of 2011 before the learned Magistrate. Meanwhile, the petitioner also filed another petition in C.M.P.No.2657 of 2011, for transfer of the investigation. The learned Magistrate vide order dated 11.01.2011, once again forwarded the matter back to the first respondent on 23.06.2011 to investigate and file a final report. Pursuant to the order of the Court below, the first respondent conducted investigation and the same was also closed as mistake of fact. Subsequently, the petitioner was served with a referred charge sheet notice. Thereafter, it was challenged



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before this Court in C.R.C.No.858 of 2014 and this Court vide order dated 10.09.2014, remitted the matter back to the learned Judicial Magistrate No.I, Coimbatore, for fresh consideration and disposal upon merits. In compliance of the order of this Court, the learned Magistrate conducted a detailed enquiry and rejected the protest petition and accepted the closure report filed by the respondent as mistake of fact.

4. The learned counsel for the petitioner would submit that the petitioner has produced documentary evidences, to substantiate that the accused has misappropriated the funds, suppressing the same, the first respondent has stated that there is no prima facie materials to proceed against the accused. He would further submit that getting back the original papers with regard to the final report already filed, the investigation officer came to a conclusion that no forgery has been committed by the accused and filed a negative report, which has also been accepted by the learned Magistrate. Hence, he prays to allow this petition and set aside the order passed in R.C.S.No.3 of 2014 in Crime No.46 of 2004 dated 14.10.2017, by the learned Judicial Magistrate No.1, Coimbatore.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

6. On a perusal of the records, revealed that the petitioner was a trustee of Sri Sowdeshwari Charitable Trust and subsequently, he was expelled from the trust. In that regard, the petitioner has already filed a suit, challenging the accounts and resolution passed in general body meeting and the same is pending. Therefore, this Court is of the considered opinion that the complaint does not constitute any offence as against the accused to proceed further. Hence, the Court below has rightly disposed the protest petition filed by the petitioner and this Court finds no infirmity or illegality in the order passed by the trial Court.

7. Accordingly, this Criminal Revision stands dismissed.

11.10.2022

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G.K. ILANTHIRAIYAN, J.

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To
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1. The Inspector of Police,
City Crime Branch,
Coimbatore.
2. The Commissioner of Police,
Coimbatore City,
Coimbatore.
3. The learned Judicial Magistrate No.1, Coimbatore.

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