



Crl.R.C.No.479 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.479 of 2020

S.Natarajan

Versus

... Petitioner

1.The State Rep.by
Deputy Superintendent of Police,
District Crime Branch,
Namakkal.

- 2.A.K.Bansal
- 3.Nupur Mitra
- 4.S.N.Misra
- 5.K.M.Thirunavukarasu
- 6.Bandobathyay
- 7.Thirugnanasambandam
- 8.Radha
- 9.Durgaprasad
- 10.Kalyanaraman
- 11.Swaminathan
- 12.Krishnamurthy
- 13.Narayanamurthy
- 14.Krishnan
- 15.Paramasivam
- 16.Unni Krishnan
- 17.Rajamanickam
- 18.Murugappan
- 19.Venkala



Crl.R.C.No.479 of 2020

20.Jayakumar
21.Kanthimathi
22.Chokalingam
23.Krishnaswamy

... Respondents

Criminal Revision Case filed under Sections 397 and 401 r/w 482 of Criminal Procedure Code to call for the records relating to the order dated 20.12.2019 made in C.M.P.No.5546 of 2018 on the file of the learned Judicial Magistrate, Tiruchengode and set aside the same by allowing the Criminal Revision Case.

For Petitioner : Mr.S.Suresh
For Respondents : Mr.R.Murthi
Government Advocate (Crl.Side) for R1

ORDER

The Criminal Revision Case has been preferred against the order dated 20.12.2019 made in C.M.P.No.5546 of 2018 by the learned Judicial Magistrate, Tiruchengode.

2. The petitioner, who is the *de-facto* complainant has lodged a complaint before the first respondent/Police against the respondents 2 to 23 herein for the offences under Sections 379, 427, 420, 499, 120(B) and 406 IPC. The first respondent/Police registered a case in Crime No.82 of 2013 and after investigation, closed the complaint as 'mistake of fact'. Thereafter, the



learned Judicial Magistrate, Tiruchengode served notice on the petitioner to submit his objections. Being not satisfied with the report filed by the respondent police, the petitioner/*de-facto* complainant filed a protest petition in C.M.P.No. 5546 of 2018 before the learned Judicial Magistrate, Tiruchengode and the same was dismissed by the Court below. Aggrieved by the same, the petitioner has filed the present revision.

3. The learned counsel for the revision petitioner submitted that there are *prima facie* allegations levelled against the respondents 2 to 23/accused regarding misappropriation of funds. The petitioner was running a poultry farm and he opted for expansion of Unit-III in the poultry farm, he applied loan for a sum of Rs.13.57 crores in the Indian Overseas Bank, out of which, Rs.13.50 crores was sanctioned by the Bank. However, the Bank officials did not choose to disburse the loan amount, the petitioner made a complaint to the General Manager, Chennai, regarding non-disbursing of the loan amount. Thereafter, the loan was restructured and a sum of Rs.12.20 crores was sanctioned, even the said amount was also not disbursed to the petitioner. Thus, the petitioner gave a complaint before the NABARD. After conducting full and exhaustive inspection the NABARD recommended the Bank for



disbursement of the said loan amount. However, the private respondents herein/Bank officials with oblique motive they did not disburse the loan amount to the petitioner. He further submitted that when the complaint given before the respondent/Police, though the respondent/Police reluctant to register the case, subsequently, they registered the case, however they filed a closure report as 'mistake of fact'. Thereafter, the petitioner approached the learned Magistrate, the learned Magistrate also failed to consider the allegations levelled against the private respondents in the complaint given by the petitioner and simply accepted the closure report of the first respondent and rejected the claim of the petitioner, which warrants interference of this Court.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that based on the complaint given by the petitioner the respondent police investigated the matter and since no case has been made out, filed the negative report before the learned Magistrate and also rightly accepted the same, which does not call for any interference.



5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

6. On a careful perusal of the complaint filed by the petitioner, it is seen that *prima facie* allegations are made against the respondents/accused and also there are enough materials to conduct the investigation. Though the first respondent registered the case, however, filed a closure report as 'mistake of fact'. The learned Magistrate after receiving the final report, issued notice to the petitioner to file his objections. The learned Magistrate has failed to consider the fact that there was *prima facie* allegations made out in the complaint against the respondents/accused for misappropriation of funds and it is also stated that the respondents 2 to 23 have committed breach of trust.

7. Further it is seen from the complaint that the *prima facie* allegations levelled in the complaint are purely criminal in nature and the offences of cheating, criminal breach of trust and fabrication of documents and misappropriation of funds are made out, which requires further investigation in this matter.



Crl.R.C.No.479 of 2020

8. In the light of the above, this Court finds that the order passed by the learned Magistrate is perverse and hence, the order dated 20.12.2019 passed in C.M.P.No.5546 of 2018 by the learned Judicial Magistrate, Tiruchengode is set aside. Accordingly, this Criminal Revision Case is allowed. The first respondent/Police is directed to re-investigate the matter and file a charge sheet before the Court below in accordance with law. The first respondent is further directed to conduct a fair investigation and file a charge sheet in accordance with law within a reasonable time without any further delay.

15.12.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms

To

- 1.The Judicial Magistrate,
Tiruchengode.
- 2.The Public Prosecutor,
High Court, Madras.
- 3.The Deputy Superintendent of Police,
District Crime Branch,
Namakkal.



WEB COPY



Crl.R.C.No.479 of 2020

P.VELMURUGAN, J.

ms

Crl.R.C.No.479 of 2020

15.12.2022