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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7/1/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.23134 of 2017

a n d

CrI.M.P.Nos.5251 and 5114 of 2018

Ezhilarasi Manoharan

...Petitioner

Vs

1. The Inspector of Police
District Crime Branch
Nagapattinam
Nagapattinam District.

2. M. Sridevi

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash F.I.R.No.7 of 2017 on the file of the first respondent.

For petitioner ... Mr.N.A.Nissar Ahmed

For respondents ...Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)
for R.1

Mr.B.Kumar
Senior Counsel
for Mr.G.Mani Prabhu
for R.2

O R D E R

This Criminal Original Petition has been filed to quash F.I.R.No.7 of 2017, filed for the offences punishable under Sections 406, 409, 465, 468, 471 and 420 of the Indian Penal Code, on the file of the first respondent, by the defacto complainant/second respondent.



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2. The crux of the allegation in the First Information Report is that the petitioner has misappropriated the amount to the tune of Rs.40,45,597/- in the Educational Society and released the salary to the delinquent employee, thereby the prosecution has been launched.

3. Heard Mr.N.A.Nissar Ahmed, learned counsel appearing for the petitioner, Mr.S.Vinoth Kumar, learned Government Advocate (Criminal Side) for the first respondent and Mr.G.Maniprabhu, learned counsel appearing for the second respondent.

4. The learned counsel appearing for the petitioner submitted that FIR is an abuse of process of law and in fact, one S.Pandarinathan, employee, filed the writ petition, in W.P.No.17368 of 2001, challenging the order of the Institution and for payment of arrears of salary. This Court, vide order, dated 2/12/2003, directed the Educational Society, to pay the salary for the period from 31/10/1994 to 3/11/1999. Again disciplinary action was taken against him which was also revoked. Based on the orders, salaries were paid to the employees. Therefore, the same cannot be considered as misappropriation, as alleged in the complaint. Hence submitted that this complaint is nothing but an abuse of process of law and the same is arising out of the dispute among the family members of the Educational Institution.

5. Mr.B.Kumar, learned Senior Counsel appearing for the second respondent submitted that as the petitioner is the Chairman of the Institution, and there were writ orders to disburse the salary, he has no serious objection in quashing the FIR.

6. As rightly pointed out by the learned counsel appearing for the petitioner that this Court, in W.P.No.17368 of 2001, has held that employees and the petitioner in the writ petition is entitled to the salary for the period 31/10/1994 to 3/11/1999. The above order has been challenged in W.A.No.1607 of 2005, which has also confirmed the order of the learned Single Judge. Once again, the employee was placed under suspension and the same was revoked, and the same could be seen in W.P.No.49254 of 2006. As per the Disciplinary Rules, whenever the staff member or delinquent was reinstated without giving any punishment, the period of suspension would be normally treated as duty. In such a view of the matter, FIR is nothing but an abuse of process of law.



7. In the result, this Criminal Original Petition is allowed. F.I.R.No.7 of 2017 pending on the file of the first respondent is quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

mvs.
To

1. The Inspector of Police,
District Crime Branch,
Nagapattinam,
Nagapattinam District.
2. The Public Prosecutor,
Madras High Court,
Madras.

+1cc to Mr.N.A.Nissar Ahmed, Advocate Sr.1789

Crl.O.P.No.23134 of 2017

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srg 31/01/2022