



Crl.O.P.No.23702 of 2019
and Crl.M.P.No.12474 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.09.2022

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.23702 of 2019

and

Crl.M.P.No.12474 of 2019

1.K.Murugan

2.K.G.Samu

.. Petitioners

Vs.

1.State Rep.,by The Inspector of Police,
C.C.I.W., Vellore,
Vellore District.
(Crime No.2 of 2018)

2.The Deputy Registrar of Co-operative Societies,
I/C.Tirupattur,
Vellore District.

..Respondents

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code to call for the records and quash F.I.R.as against the petitioners in Crime No.2 of 2018 pending on the file of the 1st respondent police.

For Petitioner : Mr.S.Sairaman



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For R1 : Mr.N.S.Suganthan
Government Advocate (Crl.Side)

For R2 : No appearance

ORDER

This Criminal Original Petition is filed to quash the criminal complaint pending against these petitioners in Crime.No.2 of 2018 on the file of the Inspector of police C.C.I.W., Vellore, Vellore District for the alleged offences under Sections 408, 467, 471, 477 (A) and 120(B) of I.P.C.

2. The sum and substance of the complaint is that pursuant to the enquiry conducted under Section 81 of Tamil Nadu Co-operative Societies Act, the irregularities in waiver of agricultural loan noted in the Chettiappanur Primary Agricultural Co-operative Society and therefore complaint lodged by the Deputy Registrar of the Co-operative Societies forwarded to the respondent police on 14.11.2018, to investigate the irregularities leading to monetary loss to the Society. A case has been registered against the Secretary, Clerk, President and Members of the Society, who were responsible for the disbursement of loan as well as



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took the decision to waive the loan as per the Government Order.

3. The learned counsel for the petitioners would submit that subsequent to the Section 81 of Co-operative Societies Act proceedings initiated by one Muniraj, the Deputy Registrar and registration of this complaint by the respondent police, surcharge proceedings under Section 87 was initiated. Wherein, the very same Muniraj has concluded that the President and the elected Members of the Society who were in charge of Society are unlettered persons and not aware of the fraud committed by the Secretary and the Clerk who were placed under suspension for their misconduct, and therefore exonerated the President and Members of the Society, holding the Secretary of the Society and the Clerk alone are responsible for the said loss of Rs.96,32,876/-.

4. Relying upon the said report of surcharge proceedings dated 25.06.2019 under Section 87 of the Act, given by same Muniraj, the learned counsel for the petitioners would submit that the surcharge proceedings under Section 87, is a quasi-judicial proceedings and having found in the surcharge proceedings that there is no willful negligence on



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the part of these petitioners and they have acted in good faith, the respondent police cannot further pursue the investigation.

5. The learned Government Advocate (Crl.Side) for the State would submit that, no doubt that the complaint in his official capacity as the Presiding Officer in the surcharge proceedings has given up and exonerated the President and the Committee Members. However, that will not be an impediment for the respondent police to investigate the case and find the trail of the defrauded money and it is incorrect to hold pre-maturely without proper investigation that the President and the Members of the Executive Committee acted in good faith and they were misled the Secretary and Clerk exploited their illiteracy.

6. This Court agrees in full with the submissions made by the learned Government Advocate (Crl.Side) having been contested in the election and took over the responsibility of the President and the Members of the Society, the petitioners cannot take advantage of illiteracy and escape from the criminal liability of cheating the Society to the tune of nearly Rupees one crore, which is meant for poor agriculturist



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to avail loan from the Society. The defence of good faith is not available for the accused who is in-charge of accounts and handing over the money. In any event, it is for the investigation agency to conduct the investigation and arrive at appropriate finding by way of filing a final report. Prayer to quash the complaint based on the observation made by the *de facto* complainant in the departmental proceedings is not sustainable, since the finding in the Surcharge proceedings under Section 87 of the Act, though may be by a quasi-judicial proceedings, it is not the substitute for criminal prosecution and will not impede the Investigating Officer who has to independently investigate the complaint and conclude by way of final report.

7. Hence the Criminal Original Petition to quash the F.I.R., is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also dismissed.

19.09.2022

Internet : Yes/No

Index: Yes/No

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Dr.G.JAYACHANDRAN, J.

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To

1.The Inspector of Police,
C.C.I.W., Vellore,
Vellore District.
(Crime No.2 of 2018)

2.The Deputy Registrar of Co-operative Societies,
I/C.Tirupattur,
Vellore District.

3.The Public Prosecutor,
High Court of Madras,
Chennai-104.

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