



Crl.O.P.No.553 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.553 of 2023
and
Crl.M.P.Nos.254 & 255 of 2023

K.Sekar
S/o.Late Kullan

... Petitioner

Vs.

State represented by its
The Inspector of Police,
CCIW CID,
Salem.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. against the order dated 06.08.2022 made in CRP No.15 of 2018 on the file of II Additional District Judge, Salem, confirming the order dated 13.02.2018 made in C.M.P.No.6262 of 2013 in C.C.No.115 of 2013 on the file of Judicial Magistrate III, Salem.

For Petitioner : Mr.N.Kolandaivelu

For Respondent : Mr.A.Gopinath
Government Advocate [Crl.side]



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ORDER

WEB COPY This Criminal Original Petition has been filed challenging the order passed by the learned II Additional District Judge, Salem, in CRP No.15 of 2018, dated 06.08.2022, confirming the order passed by the learned Judicial Magistrate III, Salem in C.M.P.No.6262 of 2013 in C.C.No.115 of 2013, dated 13.02.2018, dismissing the discharge petition filed u/s.239 Cr.P.C.

2. Heard Mr.N.Kolandaivelu, learned counsel for petitioner and Mr.A.Gopinath, learned Government Advocate [Crl.side] appearing for respondent.

3. The main ground that was urged by the petitioner is that there are absolutely no materials against the petitioner to make the petitioner undergo the trial before the Court below. According to the petitioner, he was working as the Co-operative Sub-Registrar at the relevant point of time and that he had nothing to do with the entrustment of funds belonging to the society. According to the petitioner, one other accused person viz., A7 was discharged from this case by the learned Magistrate and that he is also placed on par with the petitioner. That apart, the



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petitioner is also placing reliance upon a circular dated 11.12.1991 issued by the Registrar of Co-operative Societies, Kilpauk, wherein it has been stated that criminal action should not be taken against the officer holding the supervisory post in the co-operative society.

4. On carefully going through the materials and also the order passed by both the Courts below, it is seen that specific allegations have been made against the petitioner by LW-18, who was the Special Officer at the relevant point of time. This Court also had an opportunity to go through the statement made by LW-18. Even though no criminal proceedings were recommended while submitting the report u/s.81 of the Co-operative Societies Act, that by itself is not a ground to state that no criminal prosecution can be launched. Ultimately, if there is some material to show that the petitioner was also part of the conspiracy, it will get proved only in the course of trial.

5. This Court, by exercising its jurisdiction u/s.482 Cr.P.C. cannot convert this petition into a second revision after two Courts have already applied their mind and rejected the claim made by the petitioner. This Court is not able to see any apparent illegality or infirmity in the orders



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passed by the Courts below and the same does not warrant interference of this Court.

In the light of the above discussion, this Criminal Original Petition is dismissed and there shall be a direction to the Court below to complete the proceedings in C.C.No.115 of 2013 within a period of six (6) months from the date of receipt of a copy of this order and a compliance report shall be filed before this Court. Consequently, connected miscellaneous petitions are closed.

22.08.2023

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

gm

To

1.The II Additional District Judge,
Salem.

2.The Judicial Magistrate III,
Salem.

3.The Inspector of Police,
CCIW CID,
Salem.

4.The Public Prosecutor,
Madras High Court.



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N.ANAND VENKATESH, J

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