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Crl.R.C.No.498 of 2023 batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.R.C.Nos.498, 499, 500, 501, 528, 529, 530, 532, 533 & 534 of 2023
and

Crl.M.P.Nos.3848, 3849, 3850, 3851, 3853, 3854, 3855, 3856, 4015, 4016,
4019, 4020, 4017, 4018, 4022, 4025, 4034, 4035, 4045 & 4042 of 2023

Krishnamoorthy

... Petitioner in all Crl.R.Cs.

Vs.

The State Rep. by

The Inspector of Police,

Commercial Crime Investigation Wing (CCIW),

Perambalur,

Crime No.02 of 2008

... Respondent in all Crl.R.Cs.

COMMON PRAYER: Criminal Revision Cases filed under Section 397
r/w 401 of Cr.P.C to call for the records and set aside the orders made in
Crl.M.P.Nos.2732, 2733, 2734, 2735, 2741, 2736, 2740, 2739, 2738 &
2737 of 2021 in C.C.Nos.316, 317, 318, 319, 325, 320, 324, 323, 322 &
321 of 2008 all dated 19.01.2023 passed by the learned Judicial Magistrate
No.I, Ariyalur.

For Petitioner : Mr.G.Pugazhenth

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



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COMMON ORDER

The petitioner is the secretary of the Keezhakudyiruppu Primary Agricultural Co-operative Society, against whom 10 cases have been registered which are pending trial in C.C.Nos.316 to 325 of 2008.

2. In all the cases, the petitioner had filed discharge petitions. On dismissal of the same, he had filed the above petitions. Learned counsel submitted that these revisions can be divided into two groups viz., Crl.R.C.Nos.498, 499, 500 and 501 of 2023 as one group and Crl.R.C.Nos.528, 529, 530, 532, 533 & 534 of 2023 as the other.

3. Learned counsel for the petitioner submitted that as per the 81 enquiry report, the petitioner took in-charge as secretary from 28.05.1999 to 06.02.2007. The jewel loan which was disbursed during the period 24.05.1999 to 27.05.1999 pertains to the five cases. Admittedly, the petitioner was not a secretary during the said period and hence, he cannot be held liable for any misappropriation or cheating committed on the alleged



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jewel loans during the said period. As regards, the second set of revisions, there are 19 jewel loans said to have been misappropriated in the name of one Jayashankar, Muthukumar, Kalyani, Chinnadurai and Subramani. These jewel loans had admittedly been repaid and redeemed. It is only an internal arrangement with the staffs and the petitioner had got nothing to do. The enquiry report itself states that for the three of the employees, PF advance amount had been paid and some entries had been made, for which, the petitioner as a secretary is not liable. The society is running with the established procedures and principles and functioning with the staffs viz., junior clerks, senior clerks and office assistants. It is not the duty of the petitioner to write or maintain any records, but he is only overall in charge of the society. He also produced a set of vouchers to show that the petitioner has not signed in any of the vouchers. The petitioner submits that after the 81 enquiry, 87 recovery proceeding orders have been passed, against which CMA filed before the Session Court and the Sessions Court had dismissed the same in CMACS.No.4 of 2011 on the point of limitation as early as in the year 2012.



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4. Learned Additional Public Prosecutor submits that in this case, 81 enquiry conducted which is a detailed one. From the 81 enquiry, it is seen that all the documents have been verified. The society members were called examined, statements recorded and it was found that none of the society members, in whose names jewel loans taken, categorically stated that they have not availed any jewel loan and the signatures found therein were obtained for some other purposes and not for jewel loans. He further submitted that in the enquiry report, the misappropriation of cheque leaves have been well narrated with calculation giving details of vouchers, name of the society members, amount and records. The petitioner had taken a stand that the vouchers not recorded in any registers and hence, he is not held responsible and liable, since the petitioner is the Secretary of the Society and he has overall responsibility and control over the Society records and its functioning. He further submitted that the liability of each of the accused clearly tabulated. As regards the petitioner who is the secretary during the period, he had taken Rs.3,07,418/-. He further submitted that the Secretary, Senior Clerk, Clerk and the Vice President have given an admission letter of misappropriation. As regards this petitioner, he had given an admission



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letter and also undertaking to pay a sum of Rs.3,52,396/- in total Rs.10,15,655/- misappropriated and cheated. Out of which, so far, only a sum of Rs.2,02,027/- have been paid by them. The points raised by the petitioner are factual and to be decided in trial. Further he submitted that in this case, already charges have been framed and summons have been taken for examination of witnesses.

5. Considering the submissions and perusal of materials, it is seen from the 81 enquiry report that it is a detailed one wherein all the particulars have been given with tabulation containing details of misappropriation, vouchers, amount and date. The contention of the petitioner that he was a Secretary for a certain period and prior to that, he cannot be held responsible or liable cannot be straight away accepted, since the resolution to make the petitioner as Secretary was passed much earlier and what was the arrangement, on which date he was allowed to act and when it was actually recorded are the facts to be decided only during the trial. The prosecution, referring to the statements of witnesses and doubts, opposed this petition. Further in this case, already trial commenced.



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6. In view of the above, this Court is not inclined to entertain these petitions. However, learned counsel for the petitioner has sought liberty that the petitioner may be permitted to raise all the points raised here before the trial court. It is made clear that the petitioner is given the liberty to raise all the points raised here during trial.

7. With the above observation, this petition is dismissed. Consequently, connected miscellaneous petitions are closed.

24.11.2023

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M. NIRMAL KUMAR, J.

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