



CrI.O.P.No.11118 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.11118 of 2023 and
CrI.M.P.Nos.6978 & 6979 of 2023

N.V.Devi

...Petitioner

Vs.

1.The State by
The Inspector of Police,
District Crime Branch Police Station,
Tiruvarur District,
Crime No.14 of 2006.

2.Dr.N.Sitaraman

...Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records in C.C.No.147 of 2011 on the file of learned District Munsif cum Judicial Magistrate, Needamangalam, Tiruvarur District, in Crime No.14 of 2006 on the file of Inspector of Police, District Crime Branch Police Station, Tiruvarur District and quash the charge sheet pending against the petitioner.

For Petitioner : Mr.D.Rameshkumar

For Respondents :Mr.Leonard Arul Joseph Selvam
Government Advocate (crl.side)



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(For R1)

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ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.147 of 2011 on the file of learned District Munsif cum Judicial Magistrate, Needamangalam, Tiruvarur District, in Crime No.14 of 2006 on the file of Inspector of Police, District Crime Branch Police Station, Tiruvarur District, and quash the charge sheet pending against the petitioner.

2.The learned counsel for the petitioner submitted that petitioner is the first accused in C.C.No.147 of 2011. On the basis of the complaint, First Information Report was registered for the offences under Section 408 of I.P.C. The complaint was given without taking the permission of the trust. If any wrong is noticed in the administration of the trust, the only remedy available is to institute a civil suit under Section 92 of C.P.C. Therefore, giving criminal complaint and prosecuting the petitioner is not right and therefore this petition.

3.In response, the learned Government Advocate (Criminal side)



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submitted that first accused in conspiracy and in connivance with other accused has misappropriated the funds of Anjalai Ammal Mahalingam Engineering College, Kovilvenni, Tiruvaru District, run by the Mazdoor Welfare Trust. The statement of witnesses and documents filed in support of the final report establishes the allegations against the petitioner and thus he prayed for dismissal of this petition.

4.Considered the rival submissions and perused the records.

5.On the basis of the complaint given by Dr.N.Sitaraman, Principal to Anjalai Ammal Mahalingam Engineering college, First Information Report in Cr.No.14 of 2006 was registered for the offence under Section 408 I.P.C. by the District Crime Branch, Tiruvarur, against the petitioner and other accused.

6.The First Information Report allegations, in brief, show that Anjalai Ammal Mahalingam Engineering was established in the year 1995. The college is run by a trust called Mazdoor Welfare Trust. As per the trust



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deed managing trustee is authorised to operate the current and other accounts. Originally the trust was managed by founder Thiru.Namachivayam till 2000, subsequently, by daughter Smt.N.V.Devi. Southern railway Mazdoor filed a civil suit in C.S.No.160 of 2004 in this Court for framing a scheme and for administration of Mazdoor Welfare Trust and for other reliefs. Hon'ble Mr.Justice Ashok Kumar during the course of hearing observed that “all is not well with the administration of the trust and the college and the members of the family of the founder. An interim order was passed on 29.04.2005 for co-opting two members of the Railway Mazdoor Union along with three daughters of the founder for the Mazdoor Welfare Trust as trustees for managing the trust and its activities. Hon'ble Mr.Justice A.Ramamurthi, retired Judge of this Court, was appointed for managing affairs of the trust till the disposal of C.S.No.160 of 2004. After assuming office, then Chair person was asked to furnish the accounts for 2004-2005 for audit. However, petitioner has not produced and handed over the account books and other records. On verification, it was found that amounts were transferred to eight employees, with whom there is no financial relationship, except payment of salary to them. The



amounts transferred through cheque comes to Rs.31,71,960/-. The details of amount transferred in the name of staff are as follows:-

- i)K.Mohan – Rs.17, 01,290/-
- ii)R.Janakiraman – Rs.7,04,037/-
- iii)Vijai @ vijaianand – Rs.3,53,042/-
- iv)D.Balamurugan – Rs.3,20,905/-
- v)V.Balakrishnan – Rs.25,990/-
- v)Manohar – Rs.25,696/-

7.Further scrutiny of the records shows that a sum of Rs.11,260/- was given to V.Srinivasan. The cheque was encashed by Janakiraman.

8.After investigation the respondent filed final report against the petitioner/accused and eleven others for the offences under Section 408 of I.P.C. @ 420, 465, 467, 468, 477 (A) of I.P.C. @ 120 (b), 406, 408, 465, 468, 471, 477 (A), 420 and 34 of I.P.C. The respondent examined 27 witnesses and recorded their statement. Witness No.1 Doctor



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N.Seetharaman has spoken about the criminal breach of trust committed by the petitioner and other accused. Witness No.2/V.S.Kumar has spoken about the fabrication of documents for the purpose of cheating and misappropriation of funds. Witness No.3/S.Tamizharasan spoke about the misappropriation and that his removal from the post for the reason that he was the hindrance for the act of criminal breach of trust, criminal misappropriation and cheating committed by the accused. Witness No.4/V.N.Govindaraman, an Auditor, spoke about non-production of accounts for audit and non-maintenance of proper accounts by the accused. Similarly other witnesses have also given statements in support of the First Information Report allegations and in support of criminal breach of trust, criminal misappropriation and cheating committed by the petitioner and other accused. Thus, this Court finds from the materials produced before this Court that there are materials available for presuming the commission of aforesaid offences by the petitioner and other accused. It is pertinent to note that this case is pending from 2011. Only in 2023 this petition for quashing in C.C.No.147 of 2011 is filed. It is informed by the learned Government Advocate (Criminal side) that the petitioner and other accused



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deliberately remained absent and the NBW was pending against the accused. The accused are not co-operating for the trial. Thus derailed the criminal prosecution. Therefore, this Court is of the view that this case is not a fit case for quashing the proceeding in C.C.No.147 of 2011 on the file of learned District Munsif cum Judicial Magistrate, Needamangalam, Tiruvarur District, in Crime No.14 of 2006 on the file of Inspector of Police, District Crime Branch Police Station, Tiruvarur District.

9.Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non speaking order
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To

- 1.The District Munsif cum Judicial Magistrate,
Needamangalam, Tiruvarur District.
2. The Inspector of Police,
District Crime Branch Police Station,
Tiruvarur District,
- 3.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN, J.

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