



Crl.O.P.No.20679 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.20679 of 2019 and
Crl.M.P.No.10639 of 2019

1. R.Rajeswari
2. K.P.Madhavan
3. K.P.Baskaran
4. B.Karthikeyan
5. N.Govindarajan

... Petitioners

Vs.

- 1.The State rep. by
The Inspector of Police,
District Crime Branch,
Salem.
(Crime No.8 of 2019)

- 2.R.Baskaran

... Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.8 of 2019 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.E.C.Ramesh

For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

For 2nd respondent : No appearance



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ORDER

This Criminal Original Petition is filed to quash the FIR in Crime

No.8 of 2019 on the file of the 1st respondent.

2. The petitioners are the accused 1 to 5. The 2nd respondent has given a complaint by alleging that the act of misappropriation and cheating has been committed by the accused while they were at the helm of a registered society by name M/s.Bharthi Kalvi Nilayam, Registration No.176 of 1988. A school by name Bharathi Matriculation Higher Secondary school is being conducted by the society at Gandhi Nagar Road, Thammampatti Gangavalli Taluk, Salem District. The first petitioner is the President and the 2nd petitioner is the Correspondent of the society. There were about 28 members in the society and the petitioners 1 and 2 were duly operating the accounts of Bharathi Kalvi Nilayam. The defacto complainant is the one of the trustees of the society. During the period between 2013 and 2014, the defacto complainant was the President of the society and he resigned his post due to some personal inconvenience. Subsequently, the petitioners 1 to 5 became Correspondent, President, Vice President, Secretary and Treasurer respectively and they have been managing the said School. During their



management, they have not maintained any proper accounts for income and expenditures of the society. They have misappropriated huge sum by making false entries in the account book and they have not given receipt for payments made by the students. The 2nd respondent has given certain specific allegations that the petitioners have misappropriated the funds of the society. On the said allegations, a case has been registered Crime No.8 of 2019 for the offence under Section 120B, 420 and 406 of I.P.C.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the 1st respondent.

4. The learned counsel for the petitioners submitted that there are civil suits pending between the 2nd respondent and the petitioners in O.S.No.296 of 2019 and O.S.No.293 of 2017 on the file of the learned Principal District Munsif and the Sub Court, Attur respectively. Having filed the civil suit by finding a cause of action for civil proceedings, the defacto complainant has given a criminal colour by preferring the criminal complaint. There is no ingredient to make out a case against the petitioners



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and the criminal proceedings are dragged unnecessarily due to some previous enmity between the petitioners and the 2nd respondent and hence the criminal Proceedings should be quashed.

5. The learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that the 2nd respondent/defacto complainant has given a detailed complaint in which he has mentioned certain dates and events on which the funds of the society were misappropriated and how each of the accused played a role in criminal action. In such circumstance, only if a detailed investigation is allowed to be done, it is possible to bring out the truth.

6. On perusal of the complaint, it is seen that the 2nd respondent/defacto complainant has made certain specific allegations with dates and events and specific quantum of the amount which is said to have been misappropriated by the petitioners. The 2nd respondent has stated the *modus operandi* adopted by the petitioners while making false entries in the account books of the society. Since the complaint has not been given with



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bold averments but with specific details, investigation should be done to bring out the truth. Since the complaint on the face of it, makes out a cognizable case, I feel it is appropriate to allow the first respondent Police to continue investigation and to file final report. However taking into consideration the long pendency of the matter and also the fact that the public funds are involved in this offence, the first respondent is directed to complete the investigation within a period of three months from the date of receipt of a copy of this order and to submit a final report.

7. With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

22.02.2023

vum

Index:yes/No

Speaking order / Non speaking order



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R.N.MANJULA,J.

vum

To

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

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Crl.M.P.No.10639 of 2019

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