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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.23936 of 2022

and

CrI.MP.No.15200 of 2022

Mohamed Nazeer, M/A-59 years
S/o.Sheik Hussain

.. Petitioner/Accused

.Vs.

State by
Inspector of Police
Villupuram Taluk Police Station
Villupuram District.

..1st Respondent/Complainant

(Cr.No.699 of 2021)

2.M.K.Jayanthi
(Head Clerk (SC/ST cases)
Special Sessions Court
Villupuram.

..2nd Respondent/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR registered as against the petitioner concerned in Cr.No.699 of 2021 on the file of the Inspector of Police, Villupuram Taluk Police Station, Villupuram and quash the

FIR



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For Petitioner : Mr. T.R.Ravi

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)
for R1

ORDER

This petition has been filed challenging the FIR registered in Crime No.699 of 2021, pending investigation on the file of the 1st respondent Police.

2.Heard Mr. T.R.Ravi, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.side) appearing on behalf of the 1st respondent.

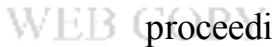
3.The petitioner was working as a Sheristadar in the Special Court for Exclusive Trial of Cases under SC/ST Act, Villupuram. The original compliant and the FIR went missing from the case records. Hence, disciplinary proceedings were initiated against the petitioner by the Principal District Judge, Villupuram District. An inquiry Officer was appointed and an inquiry was conducted for three charges that were framed against the petitioner. Ultimately, the Principal District Judge, who is the disciplinary authority conducted the final inquiry and came to a conclusion that the petitioner had committed dereliction of duty and as a result, the original FIR and the complaint were lost



and accordingly, an order was passed on 08.04.2021, dismissing the petitioner from service. While passing this order, directions were also given to the 2nd respondent to lodge a criminal complaint against the petitioner. Accordingly, a criminal complaint was given against the petitioner and the same was acted upon by the 1st respondent and an FIR came to be registered in Crime No.669 of 2021 and Crime No. 429 of 2017, for offence u/s 406 and 379 IPC. This FIR which is investigated by the 1st respondent has been put to challenge in this criminal original petition.

4. Heard Mr. T.R.Ravi, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.side) appearing on behalf of the 1st respondent.

5. It is brought to the notice of this Court that the order passed by the Principal District Judge, Villupuram was challenged by way of an appeal before the Registrar General of High Court and the Registrar General through proceedings dated 15.11.2021 interfered with the punishment imposed against the petitioner on the ground that it is disproportionate to the charges and ultimately, the punishment of stoppage of one increment with cumulative effect was made against the petitioner.



7. The short question that arises for consideration is as to whether the allegations made against the petitioner will constitute an offence of breach of trust and theft.

8. To constitute the offence of breach of trust, the ingredient of u/s 405 of IPC must be satisfied. In this case, the petitioner was in charge of maintaining the records and due to his negligence, the original FIR and complaint went missing. By no stretch, this can be held to be a criminal breach of trust since there is no misappropriation on the part of the petitioner, except for the fact that the original records went missing. Even insofar as the offence of theft is concerned, there is not even an allegation that the petitioner had stealthily taken away the original FIR and the complaint. What is alleged against the petitioner is that he was negligent and as a result, the original records went missing. This



by no stretch will satisfy the ingredients of offence of theft has defined u/s 375

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9. In the light of the above discussion, the allegations that have been made against the petitioner do not constitute an offence u/s 406 and 379 IPC and hence, the continuation of the investigation against the petitioner will only result in abuse of process of law which requires the interference of this Court in exercise of its jurisdiction u/s 482 Cr.PC.

10. In the result, the FIR in Crime No. 669 of 2021 and Crime No. 429 of 2017, for offence u/s 406 and 379 IPC, on the file of the 1st respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

21.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
KP

To

1. Inspector of Police
Villupuram Taluk Police Station
Villupuram District.

2. The Public Prosecutor
High Court, Madras.

3. Exclusive Trial of Cases under SC/ST Act

Villupuram.



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N. ANAND VENKATESH., J.
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