



WEB COPY

Crl.O.P.No.23082 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.23082 of 2023

and

Crl.M.P. Nos.16184 & 16233 of 2023

1.P.Thilagavathi

2.M.Balasubramanian

3.R.Tamilselvan

... Petitioners

-VS-

1.The Inspector of Police,
CCIW -CID Unit,
Namakkal District.
(Crime No.1 of 2014)

2.The Deputy Registrar of Co-Operative Society,
Namakkal Circle, Namakkal,
Namakkal District.

...Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the case in C.C. No.670 of 2020 pending trial on the file of the Judicial Magistrate No.II, Namakkal, Namakkal District and quash the same with regard to these petitioners.

For Petitioners
For Respondents

: Mr.K.G.Senthilkumar
:Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

**ORDER**

The petition is filed to quash the criminal proceedings initiated against these petitioners for offence under Sections 403, 408, 420, 468, 477A r/w 34 of IPC.

2. The sum and substance of the final report indicates that the dividend to be paid to the shareholders in the Cooperative Society were siphoned by the Manager and the Subordinates who are the petitioners by forging the documents and using it as a genuine one, for withdrawal of money to a tune of Rs.1,13,609.50/-.

3. The learned counsel for the petitioners submitted that the case was registered pursuant to the complaint given by the Joint Registrar who conducted the surcharge proceedings under Section 82 of the Cooperative Society Act. The Departmental enquiry ended in exonerating these petitioners, only the Manager was found guilty of the charge and he also paid the alleged money to have been misappropriated. While so, the complaint forwarded by the Joint Registrar had specifically informed the Investigation Officer that there is no necessity to proceed against the others, since Departmental proceedings been initiated. Despite that, the Police has filed final report against these petitioners for the offences as stated above.

4. The learned Government Advocate (Crl.Side) referring the gist of the



final report and the opinion of handwriting experts obtained submitted that the evidence collected in the course of investigation indict these petitioners for forging documents, signature, thumb impression of the shareholders to enable A1 to siphon the money. The vouchers tendered for collecting money been prepared by them and those vouchers were found to be false documents by forging sign and thumb impression of the shareholders. Since on collection of prima facie materials to prosecute these petitioners, the Police has laid the final report and Court has also taken cognizance of the offence. The exoneration of the petitioners in the Departmental proceedings which was confined to misappropriation cannot be bar or legal impediment for the Police to investigate the other offence making false documents, forging the signature and using the false and forged documents as genuine for misappropriation.

5. Hence, this Court finds no grounds to interfere the trial of C.C. No.670 of 2020, pending on the file of the learned Judicial Magistrate No.II, Namakkal by entertaining the quash petition. Accordingly, this Criminal Original Petition is ***dismissed***. The dismissal of the quash petition shall not stand in the way of the petitioners to raise in the defence available for them before the trial Court. Consequently, connected Miscellaneous Petitions are also dismissed.

24.11.2023

Internet : Yes/No

<https://www.mhcjudis.in/judis> Index : Yes/No



Dr.G.JAYACHANDRAN,J.

rkp

To

- 1.The Judicial Magistrate No.II,
Namakkal.
2. The Inspector of Police,
CCIW -CID Unit,
Namakkal District.
(Crime No.1 of 2014)
- 3.The Deputy Registrar of Co-Operative Society,
Namakkal Circle, Namakkal,
Namakkal District.
- 4.The Public Prosecutor,
Madras High Court, Madras.

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