



Crl.O.P.(MD).No.20637 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.20637 of 2021

and

Crl.M.P(MD) No.11737 of 2021

G.Muniasamy

... Petitioner

Vs.

1. The Inspector of Police
Sivagiri Police Station
Tenkasi District
2. Thangapandian
The Executive Officer
Arulmighu Kaliamman Kovil
Devipattinam, Sivagiri Taluk
Tenkasi District
3. The Assistant Commissioner
District Crime Branch
Tirunelveli
(R3 suomotu impleaded as per the order
of this Court dated 23.12.2021)
4. The Inspector of Police
District Crime Branch
Tirunelveli
(R4 suomotu impleaded as per the order
of this Court dated 17.07.2023)

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the First Information Report vide Crime No.118 of 2019 dated 03.04.2019 on the file of the Inspector of Police, Sivagiri Police Station, Tenkasi District and quash the same as illegal.



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For Petitioner : Mr.V.Sasikumar
For R-1,3& 4 : Mr.M.Sakthikumar
Government Advocate(Crl.Side)
For R-2 : Mr.C.Vakeeswaran

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.118 of 2019 dated 03.04.2019 on the file of the Inspector of Police, Sivagiri Police Station, Tenkasi District.

2. According to the petitioner on the complaint given by the Executive Officer of Arulmighu Kalamman Kovil, Devipattinam, Sivagiri Taluk, Tenkasi District the first respondent registered a case against the petitioner in Crime No. 118 of 2019 for the offences under Sections 409 and 420 of IPC. The allegation made in the complaint is that the petitioner who was working as a Ticket Salesman in Arulmighu Kalamman Kovil, Devipattinam, Sivagiri Taluk, Tenkasi District, when he was entrusted with the work of remitting hundi collections and ticket sales collection of the Kalamman Kovil remitted Rs.4,04,701/- and Rs.89,290/- into the bank account of Arulmighu Kalamman Kovil but misappropriated Rs.3,14,870/- The petitioner has committed the criminal breach of trust and cheating as against the temple and caused monetary loss to the temple. The petitioner is a sincere employee and he has



rendered 20 years of unblemished service in the temple. Keeping the money taken from hundi and remit the same into bank is not his responsibility and he was never entrusted with any amount and he never went to the bank to remit the same into the bank account of the temple. Infact it is the duty of the Executive Officer of the temple to keep the money and remit the same into the bank account of the temple. The above said allegation levelled against the petitioner is a false one and for misappropriation committed by some one this petitioner was made as scapegoat and the petitioner is innocent and he has not committed any offence. At the time of granting bail the entire amount was deposited by the defacto complainant, therefore the petitioner has not committed any offence and thereby the First Information Report is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner would contend that the petitioner is working as ticket salesman and he is no way connected with the above said crime and he never collected any money as alleged in the First Information Report. The Executive Officer is responsible to keep the money and remit the same into the bank. Even according to the First Information Report no offence is made out as per section 409 of IPC as against this petitioner since no money was entrusted with him. Already the disputed amount was deposited into



bank account of the temple during the hearing of bail application.

Therefore there is no material to constitute the offence under Section 409 of IPC and thereby the First Information Report is liable to be quashed.

5. The learned counsel appearing for the second respondent would contend that the petitioner who was entrusted the work of remitting money with the bank for a sum of Rs.4,04,701/- and Rs.89,290/- into the bank account of Arulmighu Kalamman Kovil had misappropriated Rs.3,14,870/-, thereby complaint was given and based on that complaint the first respondent registered the First Information Report and at this stage the First Information Report cannot be quashed. The second respondent has not deposited any amount in the account of the temple for the bail application and the petitioner has to face the trial since he misappropriated the funds of the temple. At this stage without any investigation truth will not come out and thereby the petition is liable to be dismissed.

6. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the second respondent, the first respondent has registered the First Information Report in Crime No. 118 of 2019 for the offences under



Sections 409 and 420 of IPC. After registration of the First Information Report, the case was transferred to the file of the fourth respondent and the same is pending investigation on the file of the fourth respondent. Therefore at this stage without any investigation the First Information Report cannot be quashed and thereby this petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On perusal of the record it is observed that the First Information Report has been registered as against the petitioner in Crime No.118 of 2029 for the offences under Sections 409 and 420 of IPC based on the complaint given by the second respondent. According to the petitioner he is only a ticket seller and he is not an authority to deal with the cash and the cash has to be handled only by the Executive Officer and thereby no money was entrusted with him. According to the second respondent the petitioner was entrusted to remit the amount of Rs. 4,04,701 and Rs.89,290/- but the petitioner has not deposited the amount in the bank account of the temple and had misappropriated a sum of Rs.3,14,871/-. Further he denied the fact that at the time of hearing bail application the said amount was deposited by the defacto complainant. Whiles, the matter needs elaborate investigation and



without proper investigation the case cannot be decided. The case is at the initial stage of First Information Report and the arguments advanced by the learned counsel for the petitioner cannot be considered at this stage and without investigation it is not appropriate to quash the First Information Report. Further the offences are grave in nature. The petitioner has to work out his remedy through separate proceedings if any positive final report is filed against him in accordance with law, but at this stage this Court cannot invoke the powers under Section 482 of Cr.P.C to quash the First Information Report considering the gravity of offence. Further as per the guidelines issued by the Hon'ble Apex Court in the case of ***Neeharika Infrastructure Pvt Ltd vs. State of Maharashtra and Others*** reported in ***2021 SCC Online SC 315***, this Court is not inclined to allow the petition at this stage and hence the petition is liable to be dismissed.

9. Considering the registration of the First Information Report and considering the facts and circumstances of the case, it is appropriate to direct the fourth respondent to complete the investigation and file final report as expeditiously as possible.

10. Accordingly the fourth respondent is directed to complete the investigation and file final report within a period of two months from the date of receipt of a copy of this order. The fourth respondent is



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directed to conduct fair investigation without being influenced by any of the observation made by this Court in this order.

11. In view of the same and with the said observation, this Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition is closed.

17.08.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Inspector of Police
Sivagiri Police Station
Tenkasi District
2. The Inspector of Police
District Crime Branch
Tirunelveli
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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