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CrI.O.P.No.18932 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.18932 of 2024

and

CrI.M.P.Nos.11181 and 11183 of 2024

Athiyappan

... Petitioner

Vs.

1. The Inspector of Police,
CCIW/CID, Dharmapuri,
Crime No.6 of 2003.

2. The Deputy Registrar of Co-Operative Societies,
Dharmapuri.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and to quash the proceedings in C.C.No.234 of 2020 on the file of the Judicial Magistrate No.I, Dharmapuri, so far as the petitioner is concerned.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1
No appearance for R2

ORDER



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This Criminal Original Petition is filed to quash the proceedings in C.C.No.234 of 2020 on the file of the Judicial Magistrate No.I, Dharmapuri, so far as the petitioner is concerned.

2. Learned counsel for the petitioner submitted that the petitioner is arrayed as A10 in the case in C.C.No.234 of 2020 on the file of the Judicial Magistrate No.I, Dharmapuri. He further submitted that the other accused persons have already approached this Court and filed C.R.P.Nos.614, 678, 571, 589 and 588 of 2022 and this Court, vide order dated 21.04.2022, set aside the surcharge proceedings. Thereafter, they filed Crl.OP.No.22561 of 2022 before this Court, and this Court, vide order dated 30.08.2023, quashed the proceedings in C.C.No.234 of 2020 against those accused persons. He further submitted that the petitioner has already attained the age of superannuation and he is now aged about 77 years and there are no specific allegations made out against the petitioner herein and hence, he prayed that this Court to quash the case in C.C.No.234 of 2020 as against the petitioner herein.

3. Learned Additional Public Prosecutor appearing for the first



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respondent submitted that as against the order passed by this Court in

CrI.OP.No.22561 of 2022 dated 30.08.2023, the State preferred an

appeal before the Hon'ble Supreme Court and the same is pending. He

further submitted that the trial also commenced in C.C.No.234 of 2020

and witnesses were examined in chief. There are prima - facie allegations

made against the petitioner herein, and hence, there is no need to quash

the proceedings in C.C.No.234 of 2020 as against the petitioner herein.

The petitioner has to participate in the trial.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent and perused the materials available on record.

5. Admittedly, the respondent/Police registered the case in C.C.No.234 of 2022 on the file of the learned Judicial Magistrate No.II, Dharmapuri and the petitioner herein is arrayed as A.10, who has filed the present petition to quash the proceedings in C.C.No.234 of 2022.

6. On a perusal of the charge sheet, it is seen that prima-facie allegations are made against the petitioner/A10, the allegation against



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him is misappropriation of funds, which is huge amount of more than Rupees one Crore. Further, there is an allegation against the petitioner at that time when the petitioner was working as an Assistant in the said Bank. There are prima-facie allegations made against the petitioner herein and charge sheet has also been filed and the case was taken on file in C.C.No.234 of 2022 and trial also commenced in the present case. Therefore, now pending trial, this Court is not inclined to exercise the power under Section 482 Cr.P.C. The petitioner has already participated in the trial, and after trial only, the innocence of the petitioner can be decided and not at this stage. At the stage of quashing the petition, the Court has to see as to whether prima- facie allegations are made out against the petitioner and it can be only seen from the charge sheet and the statement of witnesses and not the defence taken by the accused. Further, the case was quashed against some other accused and that may not be the sole ground to quash the proceedings in C.C.No.234 of 2022 against this petitioner also. Further, challenging the order of this Court dated 30.08.2023 in CrI.OP.No.22561 of 2022, the State has preferred an appeal and the same is pending before the Hon'ble Apex Court.

7. Under the above circumstances, this Criminal Original Petition



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is dismissed. However, the petitioner is directed to participate in the trial.

Since the petitioner is now aged about 77 years, the trial Court is directed to consider the application, if any filed by the petitioner seeking to dispense with his personal appearance. However, it is made clear that the petitioner should not take advantage of the dispensation of his personal appearance and he should strictly give instructions to his counsel to proceed with the trial and should not seek any unnecessary adjournments.

8. Consequently, connected miscellaneous petitions are closed.

05.11.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To



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1. The Judicial Magistrate No.I,
Dharmapuri.
2. The Inspector of Police,
CCIW/CID, Dharmapuri,
Crime No.6 of 2003.
3. The Deputy Registrar of Co-Operative Societies,
Dharmapuri.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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