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Crl.O.P.No.23546 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.23546 of 2022

and

Crl.M.P.No.15011 of 2022

1.Palanisamy

2.P.Kumar

3.Krishnamoorthy

4.M.Muthusamy]

5.K.Rajaram

... Petitioners/A4,11,16,21 & 22

Versus

1.State rep. by,
Inspector of Police,
Commercial Crime
Investigation Wing (CCIW – CID)
Salem District.

2.The Deputy Registrar of Co-operative Societies,
Sangagiri Circle,
Sangagiri,
Salem District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the charge sheet in C.C.No.128 of 2021 on the file of the Judicial Magistrate

No IV. Salem and quash the same.



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For Petitioners : Mr.M.S.Palaniswamy
For R1 : Mr.S.Vinoth Kumar
Government Advocate (Cr.Side)
For R2 : Service Awaited

ORDER

This petition has been filed to quash the proceedings in C.C.No.128 of 2021 on the file of the Judicial Magistrate No.IV, Salem, in which cognizance was taken for the offences under Sections 406, 420, 465, 471 r/w 34 IPC.

2. The case of the prosecution is that the petitioners are agriculturalist and the members of the Nedungulam Primary Agricultural Co-operative Credit Societies Ltd., Edapadi Taluk, Salem District. The Co-operative Society is run by the elected board. One Ramasamy, Secretary / A1 and Kandasamy, Assistant Secretary / A2 and Gopal Ex-president / A3 colluded themselves committed various misfeasance and malfeasance in the affairs of the said society. The said irregularities were brought to notice to the 2nd respondent and who ordered enquired under Section 81 of the Tamil Nadu Co-operative Societies Act into the affairs of the society. The enquiry officer



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submitted his report dated 02.06.2011 finding that A1 to A3 have committed various irregularities in the affairs of the Society and the Society has suffered huge loss. The enquiry officer recommended criminal prosecution, surcharge action and disciplinary proceedings against the employees of the society. Based on the enquiry report the 2nd respondent filed a Criminal complaint against the petitioners and others before the Superintendent of Police CCIW -CID, Chennai-40. The said complaint was forward to the 2nd respondent and the same was registered in FIR No.7 of 2012 dated 23.11.2012 against the petitioners and others for the offence under Sections 408, 464, 477(A) IPC and it is pending before the learned Judicial Magistrate, Sankagiri, Salem District.

3. The learned counsel for the petitioners submitted that the petitioners are innocent farmers and they were no way connected with the alleged offence made by the prosecution. However, A1, A2, A24 and A25 have created records as if A3 to A23 have submitted applications and they have disbursed the commodity loan. A3 to A23 have no connection with either the commodity loan or the disbursal of the amount. They have not received any amount as loan. A3 to A23 are unnecessarily implicated as accused in this case. The properties of A1 were attached and sold and a sum of



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Rs.92,00,000/- was recovered. No proceedings was initiated against A3 to A23. Witness Nos.6 to 18 are similarly placed like the accused A3 to A23, but they were shown only as witnesses. A3 to A23 have been unnecessarily shown as accused only with a view to harass them. He further submitted that the petitioners are arrayed as A4, A11, A16, A21 & A22. A4 died, against other petitioners, he prayed to quash the proceedings. He also submitted that the petitioners are farmers against whom no surcharge proceedings initiated and they were falsely implicated in this case.

4. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that based on the complaint lodged by the defacto complainant FIR was registered in Crime No.7 of 2012, and the case has been taken on file in C.C.No.35 of 2014, on the file of the Judicial Magistrate No.IV, Salem, for the offence under Sections 406, 420, 465, 471 r/w 34 IPC.

5. On a perusal of the order passed by this Court in Crl.O.P.No.22487 & 24426 of 2014, dated 15.03.2022, in which reads as follows:

“ 9. The statement of K.M.Ponnusamy, daily worker in the Society is that there is no godown facility available for the Society and no member had deposited Turmeric bags in the Society, as security. The accused Ramasamy, Kandasamy and



Malathy had made entries in the disbursement register as if money was distributed to the members. At the instance of and at the threat of Ramasamy, he obtained signatures from some members, as if the signature relates to crop loan. No one has applied for commodity loan on the basis of the deposit of the Turmeric Bags. Kumar, Sub-Registrar states in his statement that as a Secretary, Ramasamy was responsible for the maintenance of the staffs and the disbursement of the loan. Ramasamy, Kandasamy and Malathy were responsible for the irregularities found in the Society. It is seen from the statement of Rajan, Sub-Registrar that after passing of resolution, certain entries were made in blue ink by Ramasamy for committing misappropriation of funds. Ramasamy was keeping the records in his custody and indulged in misappropriation of money.”-

6. It clearly reveals that there is no prima facie material against these petitioners and they are all farmers. Against the employees of the Society only enquiry is still in force and the prosecution also raised only formal objection against these petitioners, therefore this Court is inclined to quash the proceedings in C.C.No.128 of 2021 on the file of the Judicial Magistrate No.IV, Salem, against these petitioners.



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T.V.THAMILSELVI, J.

rri

7. Accordingly, this Criminal Original Petition is allowed.
Consequently, the connected Miscellaneous petition is closed.

26.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
rri

To

- 1.The Inspector of Police,
Commercial Crime
Investigation Wing (CCIW – CID)
Salem District.
- 2.The Deputy Registrar of Co-operative Societies,
Sangagiri Circle,
Sangagiri,
Salem District.
- 3.The Public Prosecutor,
High Court of Madras.

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