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Crl.M.P.No.1, 3, 7, 11, 14, 25 & 26 of 2024
in Crl.R.C.Nos.1, 2, 3, 5, 6, 8 & 9 of 2024

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M.NIRMAL KUMAR, J.

The petitioner, who is A1 in CC Nos.252 to 258 of 2017, was charged for the offences under Sections 467, 468, 418, 408, 409, 201, 204 r/w. 34, 109 of IPC.

2.The petitioner was tried along with two others before the trial Court. The petitioner was working as an Accountant/Stock Manager in Perambalur Agricultural Co-operative marketing Society and he is responsible for day-to-day affairs of the Society. During inspection of accounts, it was found that for the financial year 2005-2006, there was a shortage of 3600 kg Ponni rice in the godown. It was found that A1 to A3 sold 1200 kgs of ponni rice from 01.04.2005 to 30.03.2006 for Rs.20,100/- and remaining 2400 kg ponni rice for Rs.40,200/- and in total, an amount of Rs.60,300/-, the petitioner along with two others had misappropriated the amount of the Society by creating forged documents and also by making forged entries in the stock register, cash register and also by preparing forged receipts. All the accused colluded to each other and A1 and A2 are the salesmen of the



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Society. On lodging the complaint by the Society, a case was registered and on completion of investigation, charge sheet was filed.

3.To substantiate the charges against the accused, PW1 to 6 were examined and Exs.P1 to P48 were marked. At the end of completion of trial, the Trial Court had acquitted A1 to A3 for the offences under Sections 408, 409 of IPC. The petitioner/A1 was found guilty for the offences under Section 408 of IPC and was sentenced to undergo simple imprisonment for a period of 1 year and to pay a fine of Rs.1000/-.

4.Aggrieved against the same, the petitioner/A1 preferred an appeal in CA No.10 of 2022 and the learned Principal District and Sessions Judge vide judgment dated 12.9.2023 dismissed the appeal, confirming the conviction and sentence passed by the trial Court, against which, the present Revision is filed.

5.The contention of the petitioner is that the petitioner was not directly involved in the sale of the ponni rise. He is the Accountant, who makes the entries in the Registers of the Society based upon the particulars given by the



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Salesmen A2 and A3. In this case, A2 was acquitted by the trial Court and A3 was acquitted by the lower Appellate Court. In view of the same, the petitioner cannot be convicted.

6.On the contrary, the learned Public Prosecutor submits that the petitioner is in-charge of the Society and also in-charge of maintaining Society Registers such as stock register, cash register and other documents. For the sale of ponni rice of 3600 kgs, no cash receipts have been raised and no transaction has been made in the cash registers, but on the other hand, the stock registers were forged. The petitioner is unable to give any reason and also failed to produce the documents relating to auction and money stock register and hence the alleged misappropriation was proved. Further, it is submitted that prior to the police complaint, an enquiry was conducted under the Societies Act, wherein, it is also confirmed the petitioner's acting role in mis-appropriation of the Society funds.

7.This Court considered the rival submissions and perused the materials available on record.



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8.The order passed by this Court on 07.02.2024 is extracted as follows:

“The learned Government Advocate (Crl. Side) submitted that the petitioner is involved seven cases and the tabulated statement of the same is as follows:

S. No.	Cr.No.	U/s.	Accused Name	Company Name	CC.No.	Total Amount	Stage
01.	07/2009	417, 418, 408, 409, 477(A), 201, 204 r/w. 34, 109 IPC	A.Kaliyamoorthi	Perambalur Agriculture Cooperative E Marketing Society	252/2017	Rs.20,400	ACQ
	07/2009				253/2017	Rs.24,300	ACQ
	07/2009				254/2017	Rs.31,298.90	ACQ
	07/2009				255/2017	Rs.20,371	ACQ
	07/2009				256/2017	Rs.50,000	ACQ
	07/2009				257/2017	Rs.19,872.95	ACQ
	07/2009				258/2017	Rs.82,855.75	CON
	Total					Rs.2,49,448.06	

The total amount misappropriated by the petitioner in all the seven cases is Rs.2,49,448.06.

2.The learned counsel for the petitioner submitted that the petitioner is ready to deposit the misappropriated amount for which he is charged (Rs.2,49,448.06/-) and in total, he will deposit Rs.2,50,000/- to the credit of Perambalur Agricultural Cooperative Society, without prejudice to his right in the above case.



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3.The Perambalur Agricultural Cooperative Society is directed to receive the amount of Rs.2,50,000/- [Rupees Two Lakhs Fifty Thousand only] from the petitioner without raising objection and without prejudice to the Society's right to make claim or initiate proceedings for recovery of the amounts due from the petitioner. The petitioner is directed to deposit the amount within a period of two weeks from the date of receipt of a copy of this order.

4.Post the matter on 26.02.2024 for reporting compliance.”

9.Today, when the matters were taken up for hearing, it is represented by the learned counsel for the petitioner in all the petitions that the petitioner is not in a position to deposit Rs.2,50,000/- as directed by this Court on 07.02.2024.

10.The learned Government Advocate (Crl. Side) appearing for the respondent Police in all the petitions submitted that in view of the non-compliance of the order of this Court, the petitioner may be secured to undergo the sentence of imprisonment as ordered by the trial Court.



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11.At this stage, the learned counsel for the petitioner submitted that the petitioner surrendered before the trial Court and he is in Central Prison, Tiruchirapalli, but not complied the order of this Court to pay the misappropriated amount of Rs.2,50,000/-.

12.In view of the non-compliance of the order of this Court, this Court is not inclined to grant suspension of sentence to the petitioner. Accordingly, all these criminal miscellaneous petitions are dismissed.

04.03.2024

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