



CRL OP(MD). No.2011 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 06.02.2024

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The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) Nos.2011 and 2014 of 2022
and Crl.M.P.Nos.1463, 1465 and 1466 of 2022**

P.Sivakumar

... Petitioner

Vs

1.The Inspector of Police ,
Commercial Crime Investigation Wing,
Karur District,
(Ref : Crime No.2/2019)

2. Mr. Thiruneelakandan

... Respondents

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C.,
to pleased to call for the records in C.C.Nos.63 and 64/2020 on the file
of the Judicial Magistarate No.II, Kulithalai and quash the charge sheet
and consequential all further proceedings as against the petitioner.

For Petitioner : M/s. D.Shanmugaraja Sethupathi

For Respondents : M/s. P. Kottaisamy for R1
Government Advocate (Crl. side)



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CRL OP(MD). No.2011 of 2022

COMMON ORDER

These petitions have been filed to quash the proceedings in C.C.Nos. 63 and 64 of 2020 on the file of the Judicial Magistrate, No.II, Kulithalai.

2.It is the case of the prosecution that the petitioner was the Secretary in MM359, Keelavaliyur Primary Agricultural Cooperative Credit Society and for the financial year 2013-2014, it is alleged that various financial irregularities were found. It is alleged that a case in Crime No.3/2014 has been registered against the petitioner and the respondent has filed as many as 21 chargesheets before the concerned jurisdictional Magistrate in C.C.Nos.56 to 76/2016. In addition to the criminal case, disciplinary proceedings were also initiated against the petitioner. and hence, enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act was initiated vide the proceedings of the 2nd respondent on 10.06.2017. Subsequently pursuant to the enquiry, an enquiry report dated 17.07.2017 was submitted. Based on the enquiry report, dated 17.07.2017, the petitioner was suspended and subsequently



CRL OP(MD). No.2011 of 2022

removed from service. While so, on the complaint lodged by the 2nd respondent before the first respondent for the financial irregularities, the first respondent has registered case in Crime Nos.2 and 3/2019 and on completion of investigation, charge sheets in C.C.Nos.63 and 64 of 2020 were filed. Challenging the same, the petitioner is before this court with these petitions.

3. The learned counsel for the petitioner would submit that initially, for the financial irregularities committed, enquiry under Section 81 was contemplated on 19.06.2013 for the period from 01.04.2011 to 18.06.2013. Pursuant to the enquiry report, the 2nd respondent lodged a complaint, which was registered in Crime No.3/2014. When the criminal proceedings is pending, the department initiated disciplinary proceedings and the petitioner was removed from service on 20.07.2015. The learned counsel would submit that the petitioner has also challenged the surcharge proceedings by filing CMA(CS) No.1/2014 before the Tribunal and thereafter, in order to show his *bona fide*, the petitioner has paid a sum of Rs.48,16,000/- and the 2nd respondent has also ordered for enquiry, however, for the very same period. The learned counsel would



CRL OP(MD). No.2011 of 2022

submit that therefore, the petitioner has filed a writ petition before this court the said writ petition was allowed on 09.02.2018, thereby the enquiry proceedings was quashed, against which, in a review application filed by the President and Enquiry Officer, a detailed order came to be passed by this Court on 22.07.2019. The learned counsel would submit that when that be so, the present complaints came to be filed and chargesheets have been filed and hence, for the very same set of issue, when this Court has quashed the enquiry proceedings, the initiation of criminal proceedings is bad in law and hence, prays for interference.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. It is seen that the petitioner, while working as a Secretary of the Society in question had committed financial irregularities, for which, he was removed from service. It is the specific case of the petitioner that for



CRL OP(MD). No.2011 of 2022

the very same financial year, though the enquiry came to be concluded and the petitioner was removed from service, the 2nd respondent again ordered enquiry, which was rightly quashed by this Court and in the review application, viz., Rev.Aplw(MD) No.53/2019, which was filed by the President and the enquiry officer, a detailed order came to be passed by this Court. For the same set of irregularities, the present complaints came to be filed, which was registered and subsequently, chargesheets have been filed.

6. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.



CRL OP(MD). No.2011 of 2022

7. For the reasons aforesaid, this Court finds no ground or scope to quash C.C. Nos.63 and 64/2020 on the file of the learned Judicial Magistrate No.II, Kulithalai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.

8. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

06.02.2024

Index : Yes/No
NCC : Yes/No
RR

6/8



CRL OP(MD). No.2011 of 2022

To

1.The Judicial Magistrate No.II,
Kulithalai

2.The Inspector of Police ,
Commercial Crime Investigation Wing,
Karur District,



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CRL OP(MD). No.2011 of 2022

M.DHANDAPANI. J

RR

**ORDER
IN
CRL OP(MD) Nos.2011 & 2014 of 2022**

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