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CrI.O.P.(MD)No.8787 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.8787 of 2022

and

CrI.M.P.(MD).No.5903 of 2022

V.Kavitha

... Petitioner / Accused No.3

Vs.

1.The State rep.by
The Inspector of Police,
Co-operative Cases Investigation Wing,
Trichy,
Trichy District.
Crime No.5 of 2016.

2.J.Palaneeswari,
Deputy Registrar of Co-operative Societies,
Trichy Circle,
Trichy.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in C.C.No.1262 of 2020 on the file of the learned Judicial Magistrate No.V, Trichy West, Trichy District and quash the same as illegal insofar as the petitioner/accused No.3 is concerned.



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For petitioner : Mr.M.Sridharan
For R-1 : Mr.P.Kottaichamy
Government Advocate
(Criminal Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.1262 of 2020 on the file of the learned Judicial Magistrate No.V, Trichy West, Trichy District, against the petitioner herein.

2. The case of the prosecution is that the defacto complainant, who is the Deputy Registrar of Co-operative Societies, Trichy Circle, lodged a complaint before the first respondent Police alleging that based on the investigation report filed by the Investigating Officer on 26.02.2016 under Section 81 of the Tamil Nadu Co-operative Societies Act, it came to light that a sum of Rs.22,17,676/- belonging to the Society has been misappropriated by the four accused persons including the petitioner and loan amounts to be given to the members of the Trust were also misappropriated and the accused persons made wrong entries in the Registers by forging the signatures of the members of the Society. The first respondent Police, after completion of investigation, has filed the



charge sheet before the learned Judicial Magistrate No.V, Trichy West, Trichy District, and the same was taken on file in C.C.No.1262 of 2020 for the offence punishable under Sections 408, 409, 468, 471, 477A, 120 B and 467 IPC.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent Police 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. 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 she is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth her defence. The petitioner cannot be let by quashing the charges framed



against her as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against her. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.1262 of 2020, pending on the file of the learned Judicial Magistrate No.V, Trichy West, Trichy District.

7. The learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below and may permit the petitioner to canvass all the points raised in this petition before the trial Court during the time of trial.

8. 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 her 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



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presence of the petitioner is necessary, the trial court, at its wisdom, shall direct her appearance on those days. Liberty is granted to the petitioner to canvass all the points raised in this petition before the trial Court during the time of trial.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
ssb

To

- 1.The learned Judicial Magistrate No.V, Trichy West, Trichy District.
- 2.The Inspector of Police,
Co-operative Cases Investigation Wing,
Trichy,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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