



*Crl.R.C.(MD).No.424 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 22.07.2024

Delivered on : 12.11.2024

CORAM

**THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN**

Crl.R.C.(MD).No.424 of 2024

and

Crl.M.P(MD).No.4553 of 2024

AlBha G.Linus

... Petitioner

*Vs.*

The State Rep. By its,

Inspector of Police,

District Crime Branch,

Thoothukudi.

... Respondent

**PRAYER:** This Civil Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order passed by the learned Judicial Magistrate No.4, Thoothukudi in



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Crl.M.P.No.20822 of 2023 dated 27.02.2024 and set aside the same.

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For Petitioner : Mr.N.Dhilipkumar

For Respondent : Mr.B.Thanga Aravindh

Government Advocate (Crl.Side)

### **ORDER**

This Criminal Revision Case has been filed to call for the records relating to the order passed by the learned Judicial Magistrate No.4, Thoothukudi in Crl.M.P.No.20822 of 2023 dated 27.02.2024 and set aside the same.

2. The petitioner is the accused in C.C.No.976 of 2022 on the file of the learned Judicial Magistrate No.IV, Thoothukudi.

3. The petitioner conspired together with four other accused and cheated the Panchayat and misappropriated a sum of Rs.36,09,727/-. Therefore, the respondent police registered a case in Crime No.54 of 2016 for the offences under Sections 409, 420, 465, 468, 471, 120 B and 109 of



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IPC. The respondent police after conducting the investigation filed a final report before the learned Judicial Magistrate No.IV, Thoothukudi and the same was taken on file in C.C.No.976 of 2022. Thereafter, the petitioner filed a discharge petition in Crl.M.P.No.20822 of 2023 to discharge him from the above said offences and the same was dismissed by the learned Judge by passing the impugned order. Challenging the same, the present Criminal Revision Case has been filed.

4. The learned counsel for the petitioner has made a detailed submission and he has also vehemently contented that no material is available against the petitioner. He further stated that there is no evidence for invoking Sections 120B and 409 of IPC and there is no evidence to show that there was meeting of minds between the accused. He further submitted that the petitioner worked only for few months in the year 2016 and he had followed the procedure adopted by the earlier Officer and he is not liable to be prosecuted. As per the prosecution, the misappropriation commenced from 2013 onwards, but the petitioner started working only in the year 2016. He further submitted that many other Block Development Officers were either arrayed as accused or cited witnesses.



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5. The learned counsel for the petitioner further submitted that the petitioner is an advocate and it is stated that without the approval of the Collector he allowed the remaining accused, namely, President, vice President and secretary of Panchayat to withdraw amount from the account Nos.2 and 3 and further he has also allowed withdrawal of the amount without obtaining authorization from the BDO for an amount of two lakhs. The said violation has not been averred by the prosecution and only in the department proceedings, the said fact is stated. The learned counsel for the petitioner submitted that one of the BDO was examined and he has made a selective allegation against the accused persons. According to the prosecution, the occurrence happened in the year 2013 and the petitioner worked in the year 2016. Hence, he prayed to discharge him from the above said offence. To prove his case, he has also produced the judgments reported in 2012 9 SCC 460, AIR 1962 SC 876 and 2001 1 SCC 378.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the investigation agency collected sufficient materials to charge the petitioner for the above said offence. He has also filed a detailed counter and also submitted that the learned trial Judge correctly considered all the materials and dismissed the above



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petition. He further submitted that this Court has no jurisdiction to look into the defence of the accused at this stage and hence he seeks dismissal of this revision petition.

7. Heard both sides and perused the materials available on record.

8. A perusal of records shows that the petitioner is facing serious offence and the petitioner along with the other accused misappropriated the Panchayat funds. The investigation agency collected sufficient materials and the same was produced before the learned trial Judge and therefore, the discharge petition was dismissed.

9. Apart from the documentary evidence, the prosecution collected oral evidence and in the said circumstances, the defence of the petitioner cannot be addressd at this stage. Sufficient materials are available on record against the petitioner and the learned trial judge has rightly dismissed the discharge petition as the defence of the accused cannot be gone into at the time of dealing with discharge petition.



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10. In this case, sufficient materials are available against the petitioner and the learned trial judge after considering the entire materials dismissed the discharge petition. This Court is not inclined to interfere with the order of the learned trial Judge.

11. Accordingly, this Criminal Revision Case is dismissed and the petitioner can raise all those points before the trial Court at the time of trial. Consequently, the connected criminal miscellaneous petition is closed.

**12.11.2024**

Index : Yes / No  
Internet : Yes / No  
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To,

1. The learned Judicial Magistrate No.4,  
Thoothukudi.

2. Inspector of Police,  
District Crime Branch,  
Thoothukudi.



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**K.K.RAMAKRISHNAN,J**

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**12.11.2024**