



CrI.O.P.(MD) No.16890 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.01.2024

CORAM:

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

CrI.O.P.(MD) No.16890 of 2021

and

CrI.M.P.(MD).No.9140 of 2021

T.Palmaran

... Petitioner

Vs.

1.The Inspector of Police,
C.C.I.W. Police Wing,
Ramanathapuram District.
(Crime No.1 of 2021)

2.K.Govindarajan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the FIR in Crime No.1 of 2021 dated 04.01.2021 on the file of the first respondent for the offences under Sections 408, 409, 465, 468, 471, 477(A) r/w 109 of I.P.C and quash the same, insofar as the petitioner is concerned.

For Petitioners : Mr.T.Thirumurugan

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal Side)



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ORDER

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Challenge in this Criminal Original Petition is made to the FIR in Crime No.1 of 2021 of C.C.I.W. Police Wing, Ramanathapuram District.

2. The petitioner is Accused No.2 in Crime No.1 of 2021 and he has been charged for the offences punishable under Sections 408, 409, 465, 468, 471, 477(A) r/w 109 of I.P.C. The case of the defacto complainant/2nd respondent is that he is working as Deputy Registrar of Co-operative Society, Sivagangai and he appointed an enquiry officer to conduct an enquiry with regard to the alleged misappropriation of funds in Schwartz Higher Secondary School Employees Co-operative Thrift and Credit Society and accordingly, enquiry was conducted for the period from 01.04.2015 to 15.05.2017 and it was found that the accused no.1/ LalBahadur Murugan and the accused no.2/petitioner had misappropriated a sum of Rs.68,67,300/- by creating forged documents in the names of members of the Society. They were also found maintaining parallel accounts and loans were obtained in their names. Thereafter, an enquiry under Section 81 of the Co-operative Society Act was initiated and the enquiry officer in her report dated 23.10.2017 had stated that there is misappropriation of funds of Rs.68,67,300/- from the Society and that both the President/ petitioner and the



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Secretary had created fabricated documents and had misappropriated public funds. Based on the report, the Deputy Registrar of Co-operative Society had lodged a complaint against the petitioner and one LalBahadur Murugan before the respondent Police which came to be registered in Crime No.1 of 2021.

3. Mr.T.Thirumurugan, learned counsel appearing for the petitioner would contend that during Section 81 enquiry and Section 87 surcharge proceedings of the Co-operative Society Act, the accused No.1/ LalBahadur Murugan had submitted that he has misappropriated the public funds and also had given an undertaking letter to pay the entire amount. It is his further submission that as per the said undertaking letter, one of his properties was also attached. His contention is that the present petitioner is the Headmaster of the Schwartz Higher Secondary School and he has not committed any offence as alleged by the prosecution.

4. Per contra, Mr.R.M.Anbunithi, learned Additional Public Prosecutor (Criminal Side) would contend that 81 enquiry proceedings is very clear about the involvement of the petitioner and that the Police had almost completed the investigation and they are awaiting for the report of the hand writing expert. He therefore prayed for the dismissal of the present petition.



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5. A perusal of the records shows that the said LalBahadur Murugan (Accused No.1) had given a statement before one G.Basha, Sub-Registrar of Co-operative Society that he had misappropriated the amount to the tune of Rs.68,50,000/- and had also given an undertaking letter on 05.05.2017 to repay the entire amount. The counsel for the petitioner relying on this particular document had contended that the President who is the Headmaster of Schwartz Higher Secondary School has no role in the fraud committed by the first accused and therefore he cannot be charged for the offences punishable under Sections 408, 409, 465, 468, 471, 477(A) r/w 109 of I.P.C. However, a perusal of the proceedings of the Deputy Registrar of Co-operative Societies under Section 81 of the Co-operative Societies Act clearly shows that as per Sub Rule 23 1(a), the petitioner has to monitor the entire activities of the Society and he was aware of the collection of a sum of Rs.11,69,800/- towards jewel loan on 26.02.2016. Moreover, the petitioner was in possession of locker key and unless he gives the key, the locker cannot be opened. He had also failed to remit a sum of Rs.11,69,800/- immediately to the Central Co-operative Society Bank, Ramnad on the same date or the next day and there is no entry in this regard either in the Ledger or in the Registers maintained by the Society. The enquiry officer had given a clear cut finding with regard to the involvement of



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the petitioner in the misappropriation of funds and merely because the first accused had given an undertaking letter that he would pay the entire amount, the petitioner cannot be discharged from the offences of which he is charged. The investigation is also pending. Hence, I do not see any reasons to interfere with the same.

6. Accordingly, the present Criminal Original Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is closed.

11.01.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

- 1.The Inspector of Police,
C.C.I.W. Police Wing,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

Nsr

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