



Crl.O.P.(MD)No.20317 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20317 of 2024

and

Crl.M.P.(MD)No.12563 of 2024

L.Paul

... Petitioner

Vs.

1. The Inspector of Police,
Sambavarvadakarai Police Station,
Tenkasi.

2. A.Chidambaram
Regional Manager,
Pandiyan Grama Bank, (Town Tamilnadu Grama Bank)
Tirunelveli Region,
Regional Office,
No.98, West Cart Street,
Tirunelveli – 627 006.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the the case in Crime No.20 of 2018 on the file of the first respondent police and quash the same as against the petitioner.



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For Petitioner : Mr.C.Masilamani
For R-1 : Mr.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to quash the First Information Report in Crime No.20 of 2018 on the file of the first respondent Police.

2. The contention of the petitioner is that the petitioner is a Bank Manager of Pandyan Gram Bank, Sambavarvadakarai Branch. While he was in service, certain irregularities were found by the Inquiry Officer in issuance of jewel loan and crop loan. Further, the jewels have been sold and without the consent of the jewel loan account holders, the amounts have been operated. Hence, the petitioner along with A-2 had committed an offence. Further contention of the petitioner is that he joined the Pandiyan Gram Bank in the year 1982 and rendered 33 years of service.



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The petitioner attained the age of superannuation on 30.04.2018. The complaint has been lodged only to cause harassment to the petitioner because there was some dispute among the staff of the Bank. The petitioner during the service has discharged his duties with utmost devotion and dedication which is recognized by the said Bank.

3. Further, the contention of the petitioner is that after lodging FIR in Crime No.20 of 2018, the second respondent had issued a charge sheet dated 09.03.2018 citing the very same allegation for which the petitioner had filed a reply and in the end, the second respondent had passed a final order on 24.04.2018 awarding punishment for reduction of one stage lower in time scale of pay and the petitioner shall not earn increment of pay during the period of reduction and after expiry of such period, the reduction shall have the effect of postponing the future increments of pay. Since the petitioner has not caused any loss or benefited from the alleged transactions, no recovery proceedings has been initiated as against the petitioner. There has been some book adjustment to reach the target, but that is with the knowledge of the Superiors which has been now turned around against the petitioner. In this case, the Bank has



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suffered no loss. Further, the Apex Court in the case of *Ashoo Surendranath Tewari Vs. The Deputy Superintendent of Police, CBI* in Crl.A.No.575 of 2020, referred to various earlier judgments and it has been stated that, in case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, the criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases. Thus, the 'Three Member Bench' of the Apex Court is quietly applicable for facts and circumstances of the case.

4. The learned Additional Public Prosecutor appearing for the first respondent objected to the contention of the petitioner stating that in the disciplinary proceeding, the petitioner might have been let off with the reduction of increment but that does not automatically grant reduction of one stage lower in time scale pay and increments will not automatically give license for the petitioner to be discharged from the criminal case. There have been specific instance against the petitioner. Further, referring to the FIR, he submitted that the petitioner for the crop loan



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No.KCC CARD No.810 had granted loan of Rs.1,00,000/- on 05.10.2015 and using this amount had reconciled the jewel loan. Thus, he has been digging the amount as per his needs without the customers authorization either on the jewel loan or the crop loan and thereby, committed criminal misappropriation. It is not that the petitioner has exonerated from the above case. He further submitted that the petitioner's contention at the most can be considered during the investigation and at the time of filing a charge sheet.

5. Considering the facts and circumstances of the case, this Court is of the considered opinion that the petitioner has not been exonerated, but he had been let off with lesser penalty of reduction of pay and increments. However, in this case, there have been specific complaint which needs to be investigated as against the petitioner. The petitioner's contention is that it is only a book adjustment, and the same can be considered only at the time of investigation by calling for the records and it has to be seen whether by book adjustment, the amount has been withdrawn and misappropriated by the petitioner which has to be ruled out. Further, the citation referred by the petitioner would not be



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applicable to the facts and circumstances of the case. Hence, this Court is not inclined to entertain this petition.

6. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No

Index : Yes / No

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To

1.The Inspector of Police,
Sambavarvadakarai Police Station,
Tenkasi.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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