



Crl.O.P.No.6308 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6308 of 2023

and

Crl.M.P.No.3982 of 2023

J.Samundeeswari

... Petitioner

Vs

1. State represented by
Inspector of Police,
CCIW, CID,
Chennai.
Crime No.1 of 2021)

2. Sivasundari

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to FIR in Crime No.1 of 2021 registered by the first respondent Police namely Inspector of Police, CCIW, CID, Chennai and quash the First Information Report.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl.Side) for R1



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ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.1 of 2021 on the file of the first respondent Police registered for the offences punishable under Sections 408, 409, 468, 471, 477-A, 109 of IPC.

2. The case of the prosecution is that the second respondent lodged a complaint alleging that in the housing society, there were irregularities committed by the employees in the society during various periods, viz., from 01.06.2009 to 06.01.2018. Therefore, a domestic enquiry was ordered, and as per the report of the Enquiry Officer, the First Information Report was registered in Crime No.1 of 2021 for the offences punishable under Sections 408, 409, 468, 471, 477-A, and 109 of IPC.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

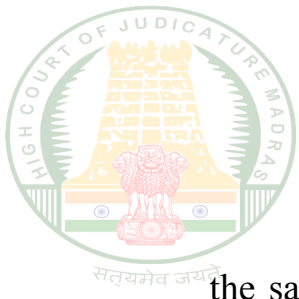


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4. The learned counsel for the petitioner would submit that as per the First Information Report, the petitioner is arrayed as A2. The petitioner was appointed by the Tamil Nadu Co-operative Department in the year 1985. When the petitioner was working as Co-operative Sub-Registrar in the office of the Deputy Registrar, Housing at the Headquarters, Chengalpattu. During the period from 11.02.2008 to 25.02.2011, there were irregularities committed in the Society. At this juncture, the petitioner was fully in-charge of the administration of the office of the Deputy Registrar of the Co-operative Societies at Chengalpattu. She was also holding an additional post as Special Officer to supervise six housing societies, including Sembakkam Co-operative Housing Society at Selaiyur.

4.1. Thereafter, she retired from service on 28.08.2014. After a period of 7 years, the First Information Report came to be registered against the petitioner. Even as per the enquiry report submitted by the Enquiry Officer, the petitioner failed to supervise the society promptly. She signed the fixed deposit receipts. However, the first accused received cash from the members of the Co-operative Society for fixed deposit and failed to deposit



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the same in the account of the Society. After receipt of the money, he had prepared fixed deposit receipts and obtained a signature from the petitioner. Based on the enquiry report, the proceeding was initiated against the petitioner. However, there was no order of recovery from the petitioner. As per the surcharge proceedings, there was recovery only from A-1, who had actually misappropriated the amount and caused wrongful loss to the Society. Therefore, he prayed to quash the First Information Report against the petitioner.

5. At worst, the only allegation levelled against the petitioner is that the petitioner failed to supervise in a proper manner. However, it is not the case of the prosecution that the petitioner had willful negligence in this aspect. Therefore, the mere negligence to maintain the records properly did not satisfy any of the ingredients for the offences as alleged by the prosecution. When an employee of the Society is found liable for supervisory lapses, it will not constitute any criminal action. Further, as per the surcharge proceedings, there was no recovery from the petitioner, since there was no finding to the effect that the petitioner had neither



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misappropriated nor fraudulently retained the money or other property, nor was guilty of breach of trust or willful negligence.

6. In view of the above, the First Information Report cannot be sustained and it is liable to be quashed. Accordingly, the First Information Report in Crime No.1 of 2021 is hereby quashed against the petitioner alone. The first respondent is directed to proceed with the investigation in Crime No.1 of 2021 against the other accused persons.

7. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

28.04.2025

Index:Yes/No
Neutral Citation/Yes/No
kv



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WEB COPY To

1. The Inspector of Police,
CCIW, CID,
Chennai.
2. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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