IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2025

Coram:

The Honourable Mrs.Justice T.V.THAMILSELVI

Crl.R.C.No.2178 of 2024
and Crl.M.P.No.17137 of 2024

Karunanidhi

...Petitioner

Versus

The State rep. by
The Inspector of Police,
Commercial Crime Investigation Department,
Cuddalore.
Crime No.5 of 2019

...Respondent

This Criminal Revision Case is filed under Sections 438 and 442 of BNSS, 2023 praying to set aside the order passed in Crl.M.P.No.11030 of 2022 in C.C.No.129 of 2022 dated 06.08.2024 on the file of the Judicial Magistrate No.1, Cuddalore.

For Petitioner	:	Mr.S.Mukunth, Senior Counsel for Mr.A.Tamilarasan
For Respondent	:	Dr.C.E.Pratap, Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed by the Petitioner seeking to set aside the order dated 06.08.2024 in Crl.M.P.No.11030 of 2022 in C.C.No.129 of 2022 passed by the learned Judicial Magistrate No.I, Cuddalore.

2. The brief facts of the case are that Petitioner had joined the service of Cuddalore Agricultural Co-operative Producers Sales Association, Cuddalore District (hereinafter referred to as "Cooperative Society") as Clerk on 02.08.1982 and he was working as an Accountant in the said Association from 01.01.2010 to 25.09.2013. While the Petitioner was in service, he colluded with one Mr.R.Krishnaraj who was working as a Special Officer in the said Cooperative Society and misappropriated the funds of the society to the tune of Rs.1,26,99,000/-. Therefore, the then Deputy Registrar of Cooperative Societies, Cuddalore had lodged a police complaint against the Petitioner and said Krishnaraj.

3. The allegations stated against the Petitioner are as follows:

(i) Petitioner had misappropriated a sum of Rs.36,00,000/- under the pretext that he gave loan of Rs.2,00,000/- each to 16 persons totally amounting to Rs.36,00,000/-.

(ii) Petitioner had misappropriated a sum of Rs.42,70,000/- by showing that there was a shortage of 5552 bags of Paddy in the Paddy Warehouse of the Cooperative Society.

(iii) Petitioner had misappropriated a sum of Rs.44,65,000/- by falsely accounting that he had purchased Paddy to the Cooperative Society.

(iv) Petitioner had misappropriated a sum of Rs.3,64,000/- by falsely stating that he had purchased Paddy for the said amount from Mr.Manokaran of Sirupalaiyur.

4. Based on the complaint given by the then Deputy Registrar of Cooperative Societies, Cuddalore, Respondent Police had registered a case in Crime No.5 of 2019 against the Petitioner and said Krishnaraj for the offences under Section 120(B), 408, 471, 477(A) of IPC and started investigating the case. In the said case, Petitioner was arrayed as Accused No.1 and the said Krishnaraj was arrayed as Accused No.2. After the completion of investigation, Respondent Police had filed the Final Report before the Court of Judicial Magistrate No.I, Cuddalore on 06.01.2022

which was taken on file in C.C.No.129 of 2022 on the file of the Court of Judicial Magistrate No.I, Cuddalore.

5. While the case in C.C.No.129 of 2022 is pending, Petitioner/Accused No.1 had filed a petition in Crl.M.P.No.11030 of 2022 in C.C.No.129 of 2022 before the Trial Court seeking to discharge him from the criminal case pending against him in C.C.No.129 of 2022 on the file of the Trial Court. However, the learned Judicial Magistrate No.I, Cuddalore vide Order dated 06.08.2024, dismissed the said petition. Hence, Petitioner/Accused No.1 has filed the present Criminal Revision Case before this Court.

6. The learned counsel for Petitioner/Accused No.1 submitted that Petitioner/Accused No.1 has not committed any offence as stated in the Final Report filed by the Respondent Police. The Petitioner/Accused No.1 had given loan to the members of the Cooperative Society in strict accordance with law and he did not misappropriate a sum of Rs.36,00,000/- from the Cooperative Society. The Petitioner/Accused No.1 had given loan to 16 persons amounting to Rs.36,00,000/- and thereafter, he had collected

the said loans with interest amounting to Rs.38,14,137/- which is evident from the Investigation Report filed by R.Gopinath, then Sub Registrar of Cooperative Societies. In Paragraph No.2 of the said Investigation Report, it has been stated that "the above 18 loans have been repaid with interest on various dates as per the details found in the attachment". Therefore, Petitioner/Accused No.1 did not cause any financial loss to the Cooperative Society.

6.1. It is further submitted by the learned counsel for Petitioner/Accused No.1 that Petitioner/Accused No.1 had not misappropriated a sum of Rs.42,70,000/- under the pretext that there was a shortage of 5552 bags of paddy in the Paddy Warehouse of the Cooperative Society. While selling paddy from the Cooperative Society, Petitioner/Accused No.1 had followed the normal business method of giving the product to the traders who have been doing good business for many years and then getting money from them for the sold product. In the present case, during the month of September, 2013, Petitioner/Accused No.1 had given 5552 bags of Paddy to the traders. Thereafter, on 20.09.2013 & 21.09.2013, Petitioner/Accused No.1 had collected money from the traders who bought the said 5552 bags of Paddy.

6.2. The learned counsel for Petitioner/Accused No.1 also submitted that Petitioner/Accused No.1 did not misappropriate a sum of Rs.44,65,000/- by falsely accounting that he had purchased Paddy to the Cooperative Society. During investigation, then Managing Director of the Cooperative Society himself had adduced that the paddy bags were purchased and sold and there is a profit in the said transaction. It was also adduced by the then Managing Director of the Cooperative Society that the amount of Rs.44,65,000/- including the dues with interest and principal amount were paid and audited accordingly.

6.3. It is submitted by the learned counsel for Petitioner/Accused No.1 that the allegation levelled against the Petitioner/Accused No.1 that he had misappropriated a sum of Rs.3,64,000/- by falsely stating that he had purchased Paddy from Mr.Manokaran of Sirupalaiyur is a baseless allegation since Petitioner/Accused No.1 had properly submitted the Accounts of the Cooperative Society and the same were also properly audited and approved by the then Audit Officer.

6.4. The learned counsel for Petitioner/Accused No.1 submitted that all the allegations were levelled against the Petitioner/Accused No.1 only after his superannuation and there was no material evidence to prove that Petitioner/Accused No.1 had misappropriated the funds of the Cooperative Society to the tune of Rs.1,26,99,000/- and caused loss to the Cooperative Society. However, without considering the same, the Trial Court has dismissed the discharge petition filed by the Petitioner/Accused No.1.

6.5. That apart, the learned counsel for Petitioner/Accused No.1 drew the attention of this Court to the Proceedings dated 21.01.2025 issued by the Deputy Registrar of Cooperative Societies, Cuddalore District, wherein, it has been stated that the amount misappropriated by the Petitioner/Accused No.1 had been recovered along with interest by the Cooperative Society during the course of investigation. The learned counsel has also produced a copy of the said proceedings before this Court.

6.6. It is further submitted by the learned counsel for Petitioner/Accused No.1 that while dealing with the cases of similar nature, this Court has quashed the criminal cases pending against the Accused therein. In the case ***R.Devakumaran Vs. State rep. by the Inspector of Police, Commercial Crime Investigation Wing, Cuddalore District*** reported in ***MANU/TN/1369/2024***, this Court has held as follows:

> *"7. The only issue that arises for consideration in this case is as to whether the petitioner who was the Special Officer and who was exonerated from the proceedings initiated under Section 87 of the Act can be made to undergo the ordeal of facing the trial in this case.*
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> *8. The issue is squarely covered by the earlier orders passed by this Court in Crl.O.P.Nos.497, 507, 550, 554, 557 to 560, 562 & 564 of 2020, dated 18.09.2020 and the relevant portions are extracted hereunder:*
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> > *"7. After registration of FIR, the first respondent completed the investigation and filed final reports and the same have been taken cognizance and pending for trial. The only ground raised by the learned counsel appearing for the petitioner before this Court is that, once the surcharge proceeding initiated by the second respondent is set aside by the Cooperative Tribunal/District Court, Cuddalore, the criminal proceedings cannot be proceeded further as against the petitioner. In this regard, he relied upon the order passed by this Court in the similar issue in Crl.O.P.No.13330 of 2017 dated 05.11.2019, in the case of P.Parimaladevan Vs. State by The Inspector of Police, which reads as follows :-*
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> > > *"5. In the case of T.Elango vs. State represented by the Inspector of Police, Commercial Crime Investigation Wing-CID, Cuddalore and another [Crl.O.P.Nos.1734 to 1737 and 19846 of 2017, dated 15.11.2017], this Court has held that an*

employee in a Supervisory capacity cannot be held responsible for criminal action. Relevant portion of the order reads as follows: "7.The main ground on which the petitioner is implicated is that he had not properly supervised and administered the entire collection and therefore, he is liable for the criminal offences. It is not in dispute that the amounts alleged to have been misappropriated were collected from the depositors by the first accused and the same was remitted to the society even before the FIR was filed. It is further not in dispute that the period of misappropriation as per the investigation is between 1998 and 2008, during which period the petitioner herein was in-charge as a Supervisor of the society between 10.10.2002 and 31.10.2004. Even during the relevant period, the petitioner was also working as Special Officer of 8 societies and was the supervising Cooperative Sub Registrar of 7 other societies. Insofar as the Neyveli Co-operaitve Housing Society is concerned, the petitioner was employed as a Supervisor during the relevant period and deputed as incharge of the Society as additional charge. On a perusal of the FIR and charge sheet, it is seen that the basic ingredients for the alleged offences are conspicuously absent. Apart from that I am unable to comprehend as to how any loss could have occurred to the Society, in view of the fact that the first accused had remitted the entire amount to the society even before the FIR came to be registered. At the most, the petitioner can be implicated for negligence and as such, it cannot be said that thepetitioner had conspired for the purpose of misappropriating the money or that he had the mens-rea to commit any of the other offences.

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9.The same proposition has been taken by another judgment in G.Selvakumar v. State through Inspector of Police, C.C.I.W.CID, Tirunelveli reported in 2011 (2) MLJ (Crl.) 608. Following is the extract of the said proposition:- 7.It is a settled proportion of law that to constitute an offence, two basic elements are required, 1. 'actus reus' and 2. 'mens rea'. In the aforesaid decision of the Hon-ble Supreme Court, it is made clear that misbehaviour or misconduct leads to disciplinary proceedings, which would not be sufficient to be construed as guilty mind or 'mens rea' to initiate a criminal proceeding. It is an admitted fact that the petitioner herein was working in a supervising capacity as Field Manager of Central Cooperative Bank, hence, in the absence of conspiracy or any factor relating to conspiracy between the petitioner and the accused A1 to A3, who subsequently, paid the amount, it cannot be decided that there were mens rea to initiate criminal proceeding against the petitioner/A8, apart from the findings of the departmental proceeding.

10.In the light of the aforesaid judgments and by correlating the case of the second respondent that there was lapses on the part of the petitioner in his capacity as a supervisor, I am constrained to hold that there could be no conspiracy between the petitioner and the other accused or mens-rea to commit the offences."

6. Likewise, this Court, in a batch of cases, in the case of Anbalagan vs. State represented by the Inspector of Police, C.C.I.W., CID., Thiruchirappalli and another, [Crl.O.P.(MD)Nos.20309 to 20320 of 2016 and 20309 to 20320 of 2016, dated 20.07.2018] held so in the following *manner: -12. Clause 8 of the Tamil Nadu Cooperative Manual deals with the prosecution against the Departmental Officers which reads thus: Prosecution against the Departmental Officers:- "Departmental Officers are working on foreign service in Co-operative organisation as Chief Executive Officers or otherwise and at times in additions to their regular government post, they are also holding additional charge of the post of Special Officers in more than one co-operative society and functioning as such. They are holding supervisory posts also over such institution. The Act or the Bylaw of the society do not differentiate a regular or additional charge Chief Executive Officer / Special Officer and both are the same in the eyes of law. These officers either in a regular capacity and more so in the additional capacity or in a supervisory capacity may not have the chance to scrutinise each and every transactions of the society. They would have failed to check and scrutinise the accounts and or exercise effective control over the subordinate staff resulting in the criminal irregularities, frauds and offences under IPC committed by the staff. Failure of such nature ie., failure to discharge their duties properly or negligence, or omissions, unless the inquiry, inspection or investigation officer finds it prima facie, that such officers with malafide criminal intention committed criminal breach of trust and or criminal misappropriation and or aided and abetted such criminal offences by the subordinate staff, will not fasten criminal liability on such officers. On the other hand, the failure of this nature, will be failure to discharge their duties properly or negligence and this may be dealt with through disciplinary proceedings. Hence the departmental officers who are not directly involved in the* *frauds or misappropriations need not be included as deliquents, in a routine manner, in the inquiry reports or complaints filed with the police." From the aforesaid provision, it is clear that if the officers who have been posted to supervise the societies failed to discharge their duty properly such officers will not fasten criminal liability unless prima facie shows that such officers with malafide criminal intention committed criminal breach of trust or criminal misappropriation or aided and abetted such criminal offences by the supporting staff.*

13. In the circular issued by the Registrar of Cooperative Societies, Chennai in R.C.No.228696/19/CP1 dated 11.12.1991 also, the same thing reiterated. For proper appreciation, the relevant portions of the said letter are extracted here under: "3. Taking criminal action against the departmental officers holding chief executive or administrative and other supervisory posts in the Cooperatives who are involved vicariously has also been examined. The departmental officers, working have no chance to scrutinize each and every transactions of the society. Though they may have an overall control, they cannot be held criminally liable, for all the criminal irregularities committed by the staff working under them. Though they fail to check and scrutinize the accounts etc., or exercise effective control over subordinate staff such failure may not deserve criminal action. On the other hand, the failure of this nature, will be failure to discharge their duties properly or negligence and this may be dealt with through disciplinary proceedings. Hence it is informed that the departmental officers who are not directly involved in the frauds or misappropriations need not be included as delinquents, in a routine manner, in the inquiry reports or complaints filed with the police." 14. In

S.Gunasekaran Vs. State represented by the Inspector of Police (supra), this Court has quashed the Criminal proceedings against the Special Officer stating that the Criminal prosecution cannot be initiated for lapse / negligence in supervising work, which is extracted below:- "8. The learned Government Advocate (Crl.Side) would submit that as per a resolution passed in the society the petitioner was responsible for the day-to-day affairs of the society and to supervise the records and the transactions of the society. The learned Government Advocate (Crl.side) would further submit that as per the materials available on record it is clear that he has failed to discharge his duties properly and the said acts of the accused would amount to offences as enumerated in the charge sheet. 9. In my considered opinion, such a negligence may create only a civil liability and there cannot be any vicarious liability in the criminal law. Even to initiate proceedings against the petitioner under Section 87 of the Tamil Nadu Co-operative Societies Act, the sine quo non is wilful negligence resulting in loss to the society and not a mere negligence. When that be so, a mere negligence to look into the records properly, in my considered opinion, would not satisfy any of the ingredients of the offences alleged against him."

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16. From the aforesaid decisions, it is clear that negligence may create only the civil liability and there cannot be any vicarious liability in the criminal law. Further, mere negligence to look into the records properly would not satisfy any of the ingredient of the offences alleged against the petitioner herein.-

7. The aforesaid decisions are self explanatory and the same principle has been reiterated in various other decisions of this Court as well. As such, the over all legal position is that when an employee of the Society is found liable for Supervisory lapse, the same will not constitute any criminal action against him. Likewise, if such an employee has been exonerated in the proceedings under Section 87 of the said Act, it has to necessarily be implied that he had neither misappropriated nor fraudulently retained the money or other property, nor is guilty of breach of trust or willful negligence. The offences for which the petitioner has now been charged with, are in effect, the very same overt acts for which he has been exonerated in the enquiry under Section 87 of the said Act."

9. It is clear from the above that where the concerned officer has been exonerated from the charges in the departmental proceedings, there is no question of making that officer to undergo the criminal trial, since the standard of proof in a criminal case is proof beyond reasonable doubt. If the petitioner was not found delinquent by applying the principles of preponderance of probabilities, there is no question of making the petitioner undergo the criminal case which requires proof beyond reasonable doubt. The above order is squarely covered the facts of the present case.

10. In the light of the above discussion, the proceedings in C.C.Nos.56 & 63 of 2016 on the file of learned Judicial Magistrate No II, Panruti, Cuddalore District, are hereby quashed insofar as the petitioner is concerned and accordingly, these criminal original petitions are allowed. Consequently, connected miscellaneous petitions are closed."

7. The learned Government Advocate (Crl.Side) appearing on behalf of the Respondent Police submitted that Petitioner/Accused No.1 had colluded with Krishnaraj/Accused No.2 and they had disbursed loan on false, fake bogus documents and misappropriated the funds of the Cooperative Society for their own personal benefit.

7.1. It is further submitted by the learned Government Advocate (Crl.Side) for Respondent Police that Petitioner/Accused No.1 who was working as an Accountant in the Cooperative Society is responsible for the funds of the Cooperative Society and thus, he ought to have performed his duty with due sincerity and dedication, but, he failed to do so. While making any payments, Petitioner/Accused No.1 ought to have verified the records and ascertained its genuineness and thereafter, disbursed the funds to the respective borrower, instead of which, Petitioner/Accused No.1 had colluded with other accused and created fake bogus documents and misappropriated the funds of the Cooperative Society by disbursing loan to the wrong persons.

7.2. The learned counsel for Petitioner/Accused No.1 submitted that merely because the amount misappropriated by the Petitioner/Accused No.1 had been recovered along with interest, *ipso facto* would not mean that Petitioner/Accused No.1 has not indulged in the commission of offence and he has not caused any financial loss to the Cooperative Society. Therefore, the learned Government Advocate (Crl.Side) prayed that the impugned order passed by the learned Trial Judge may be confirmed.

8. Heard the learned counsel on both sides and perused the materials available on record.

9. The issue involved in the present case is that while the Petitioner/Accused No.1 was working as an Assistant in Cuddalore Agricultural Co-operative Producers Sales Association, he had colluded with other accused viz., R.Krishnaraj/Accused No.2 and misappropriated the funds of the Cooperative Society to the tune of Rs.1,26,99,000/-. Therefore, the then Deputy Registrar of Cooperative Societies, Cuddalore had lodged a police complaint against the Petitioner/Accused No.1 and said R.Krishnaraj/Accused No.2. Based on the said complaint, Respondent

Police had registered a case in Crime No.5 of 2019 against the Petitioner/Accused No.1 and said R.Krishnaraj/Accused No.2. After the completion of investigation, Respondent Police had filed the Final Report before the Trial Court which was taken on file in C.C.No.129 of 2022. During the pendency of case in C.C.No.129 of 2022, Petitioner/Accused No.1 had filed a petition in Crl.M.P.No.11030 of 2022 seeking to discharge him from the case in C.C.No.129 of 2022, but, the same was dismissed by the learned Trial Judge. Hence, Petitioner/Accused No.1 has filed the present Criminal Revision before this Court.

10. As far as this case is concerned, the alleged offence was committed by the Petitioner/Accused No.1 when he was working as an Accountant in the Cooperative Society, but, the charges were levelled against the Petitioner/Accused No.1 only after his retirement. Except this case, there was no departmental proceedings or criminal proceedings were initiated against the Petitioner/Accused No.1.

11. The alleged offence has been occurred due to the lethargic attitude of the Superior Officials of the Cooperative Society who failed to

verify the Accounts and Records of the Cooperative Society periodically. There was a negligence on the part of the Superior Officials in performing their duty cautiously. So, it cannot be said that Petitioner/Accused No.1 alone is solely responsible for the monetary loss incurred to the Cooperative Society.

12. It is to be noted that in the present case, during the course of investigation itself, the amount misappropriated by the Petitioner/Accused No.1 had been recovered along with interest by the Cooperative Society.

13. The learned counsel for Petitioner/Accused No.1 has rightly placed reliance on the decision rendered by this Court in the case of ***R.Devakumaran Vs. State rep. by the Inspector of Police, Commercial Crime Investigation Wing, Cuddalore District*** reported in ***MANU/TN/1369/2024.*** The facts and circumstances of the said case is squarely applicable to the case on hand.

14. Considering the above facts and circumstances of the case and taking note of the fact that the misappropriated amount had been recovered

along with interest during the course of investigation, this Court is inclined to set aside the impugned order passed by the Trial Court and discharge the Petitioner/Accused No.1 from the case pending against him in C.C.No.129 of 2022 on the file of Trial Court.

15. Accordingly, Order dated 06.08.2024 in Crl.M.P.No.11030 of 2022 in C.C.No.129 of 2022 passed by the learned Judicial Magistrate No.I, Cuddalore is set aside and Petitioner/Accused No.1 is discharged from the case in C.C.No.129 of 2022 on the file of Judicial Magistrate Court No.I, Cuddalore.

16. This Criminal Revision Case is disposed of with the above observation. Consequently, connected Miscellaneous Petition is closed.

24.11.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Judicial Magistrate No.1,
Cuddalore.

2.The Inspector of Police,
Commercial Crime Investigation Department,
Cuddalore.

3.The Public Prosecutor,
High Court, Madras.

T.V.THAMILSELVI, J.

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Crl.R.C.No.2178 of 2024

24.11.2025