



Crl.O.P.(MD)Nos.15301 of 2020, 3310 of 2021 and 4883 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.01.2025

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.15301 of 2020, 3310 of 2021 and 4883 of 2023
and Crl.M.P.(MD) No.7398 of 2020, 1829 of 2021 and 4308 of 2023

- | | |
|---------------------|--|
| 1.B.Arsath Abdulla | ... Petitioner/
Accused No.10
in Crl.O.P.(MD) No.15301 of 2020 |
| 2.T.S.Sathyamoorthy | ... Petitioner/
Accused No.12
in Crl.O.P.(MD) No.3310 of 2021 |
| 3.P.Jeyaraman | ... Petitioner/
Accused No.7
in Crl.O.P.(MD) No.4883 of 2023 |

Vs.

- | | |
|---|--|
| 1.The State Rep. through
The Deputy Superintendent of Police
CCIW, Madurai.
(Crime No.4 of 2017 | ... 1 st Respondent/
Complainant |
| 2.The Deputy Registrar of Co-operative Societies,
Dindigul Range,
Plot No.14, Nagappa Nagar, Collectorate Post,
Dindigul District. | ... 2 nd Respondent/
Defacto Complainant
(in Crl.O.P.(MD) No.4883 of 202 and
3310 of 2021) |



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1.The Inspector of Police,
Economic Offences Wing (EOW)
Dindigul.
(Crime No.4 of 2017)

... 1st Respondent/
Complainant

2.The Deputy Registrar of Co-operative Societies,
Plot No.14, Nagappa Nagar, Collectorate Post,
Dindigul - 4.

... 2nd Respondent/
Defacto Complainant

(in Crl.O.P.(MD) No.4883 of 2023)

COMMON PRAYER : Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records of FIR in Crime No.4 of 2017 on the file of the first respondent police and quash the same as against the petitioners are concerned.

For Petitioners : Mr.M.Sheik Abdullah
(in all petitions)

For Respondents : Mr.S.Ravi
Additional Public Prosecutor
for R1
No appearance for R2
(in all petitions)

COMMON ORDER

These petitions have been filed to quash the FIR pending investigation in Crime No.4 of 2017 on the file of the Deputy Superintendent of Police, CCIW, Madurai (Subsequently merged with Economic Offences Wing, Dindigul).



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2. The case of the prosecution is that the Central Cooperative Bank, Dindigul, distributed a sum of Rs.1.66 crores as loan for bogus beneficiaries through 51 Women Self-help Groups and 34 individuals as Micro Finance Loan during the period between 01.04.2008 and 31.03.2014. Totally 159 accused persons were identified including the petitioners who were arrayed as A10, A12 and A7 respectively. Aggrieved by the same, the present quash petitions have been filed before this Court.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the first respondent.

4. The respondent police has filed a detailed status report giving the entire particulars with respect to the overt act that has been attributed as against the petitioners.

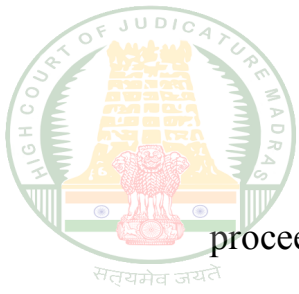


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5. The main ground that has been urged on the side of the petitioners is that all the petitioners were exonerated from the proceedings initiated under Section 87 of the 'Tamil Nadu Cooperative Societies Act, 1983' (hereinafter referred to as 'the Act' for brevity) and hence, it was contended that the petitioners cannot be made to face criminal prosecution.

6. Insofar as the petitioner in Crl.O.P.(MD) No.15301 of 2020, he has been arrayed as A10 in this case. Pursuant to the report filed under Section 81 of the Act, proceedings were initiated under Section 87 of the Act. After considering the entire facts, the second respondent namely, the Deputy Registrar of Cooperative Societies through proceedings dated 18.05.2018 has concluded that this petitioner was not directly involved in the disbursement of the loan and accordingly, the surcharge proceedings as against this petitioner was set aside and the petitioner was exonerated.

7. Insofar as the petitioner in Crl.O.P.(MD) No.3310 of 2021 who has been arrayed as A12, the second respondent through



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proceedings dated 18.05.2018 has come to the same conclusion to the effect that this petitioner was not directly involved in the disbursement of the loan and accordingly, this petitioner was also exonerated from the surcharge proceedings.

8. Insofar as the petitioner in Crl.O.P.(MD) No.4883 of 2023, he has been arrayed as A7 in this case. The surcharge proceedings as against this petitioner was sustained by the second respondent. Aggrieved by the same, this petitioner filed C.M.A (CS) No.20 of 2019 under Section 152(1) of the Act. The said appeal was allowed by an order dated 08.02.2022 after rendering a finding that the petitioner is not responsible for any loss caused to the Society. Even the disciplinary proceedings that was initiated against this petitioner was put to challenge by filing a revision under Section 153(1) of the Act and the revisional authority set aside the punishment imposed against the petitioner.

9. It is also relevant to take note of the fact that the disciplinary proceedings initiated against A10 was also set aside in revision by an order dated 30.11.2023.



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10. It is quite apparent from the above that in the surcharge proceedings as against all the petitioners, a categorical finding was rendered to the effect that they were not directly responsible for the disbursement of the loan amount and hence, they were exonerated. In the light of the such finding rendered in favour of the petitioners, the same will have a direct bearing in the criminal prosecution that has been launched against the petitioners on the same set of facts. This is more so since, the test that is applied while dealing with the surcharge proceedings is preponderance of probabilities and whereas in a criminal case, the test applied is proof beyond reasonable doubts. If the surcharge proceedings were not able to be sustained against the petitioners, obviously, the charges against the petitioners cannot be sustained in the criminal prosecution.

11. In the light of the above discussion, the respondent police shall take into consideration the proceedings through which the petitioners were exonerated and the above observations made by this Court and the names of the petitioners shall be dropped and the



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investigation shall be continued and the final report shall be filed before the concerned Court as against the other accused persons against whom there are materials to sustain the charges.

12. These Criminal Original Petitions are disposed of with the above direction. Consequently, connected miscellaneous petitions are closed.

21.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

- 1.The Inspector of Police,
Economic Offences Wing (EOW)
Dindigul.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

PKN

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Dated: 21.01.2025