BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14-10-2025

Pronounced on : 23.10.2025

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 16625 of 2023 and

CRL MP(MD)No. 13229 of 2023

P.Uma Sankari

Petitioner(s)

Vs

1.The Stae Represented by Inspector of Police,
Commercial Crime Investigation Wing, Madurai Rural.

2.The Deputy Registrar, Cooperative Soceity, Usilampatti
(i) Thirumangalam, 23/4, Rajaram 11th Street, Jawahar
Nagar, Thirumangalam 625 706, Madurai District.

Respondent(s)

For Petitioner(s): Mr.C.Padmaraj
For Respondent(s): Mr.S.S.Manoj, Government Advocate (Crl.side)

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to the impugned FIR in Crime No.1 of 2020 on the file of the Inspector of Police, Commercial Crime Investigation Wing, Madurai Rural, to quash the same.

ORDER

The Criminal Original Petition has been filed to quash the FIR in Crime No.1 of 2020 on the file of Inspector of Police, Commercial Crime Investigation Wing, Madurai Rural, on the complaint of the 2nd respondent / defacto complainant dated 06.03.2020 for the alleged offences under Sections 408, 420, 468, 471, 477-A and 120-B of IPC, in respect of the petitioner alone, wherein the petitioner was arrayed as 2nd accused and the allegation against the petitioner is lack of exercising supervisory power.

2. The alleged occurrence is between 02.06.2011 to 12.10.2011. The case of the prosecution is that the 1st accused N.Sekar who was employed as Secretary of MD.Spl.28 Primary Cooperative Society, Melathirumanickam Village, Peraiyur Taluk, Madurai District by abusing his official position had forged the signatures of agricultural farmers / beneficiaries and misappropriated the crop insurance amount allotted by the government. During 2008 to 2012, the petitioner who was appointed as Special Officer to monitor the proper functioning of the society. But it is alleged the petitioner failed to supervise the proper disbursement of Crop Insurance to the farmers. During the year 2011, 149 farmers (62 farmers and 87 non-farmers) were listed as eligible beneficiaries for crop insurance and the allotted amount is Rs.4,86,999-90 but were not properly distributed to all the affected farmers, it appears on random

examination of 38 witnesses revealed that 14 had received, 14 had not received, 4 partly received, 6 beneficiaries admitted their signatures in the vouchers but did not receive the crop insurance, that vouchers were prepared by the 1st accused N.Sekar, Secretary of the Society. Further it was alleged that the 1st accused fabricated, forged the signatures of the beneficiaries and misappropriated a sum of Rs.2,12,523/-. On the basis of the said allegation the above FIR in Crime No.1 of 2020 was registered against the 1st accused / N.Sekar Secretary of the Society and 2nd accused / P.Uma Shankari Special Officer.

3. The primary contention of the Learned Counsel appearing for the petitioner is that clause 8 of the Tamil Nadu Cooperative Manual is applicable wherein it states for lack of supervision, 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. The relevant portion is extracted hereunder:

> "*8. Departmental Officers are working on foreign service in Cooperative organization 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 cooperative society and functioning as such. They are holding*

supervisory posts also over such institution. The Act or the Byelaw 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 scrutinize each and every transactions of the society. They would have failed to check and scrutinize 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 i.e., 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 delinquents, in a routine manner, in the inquiry reports or complaints filed with the police****."*

4. Apart from the above, the Registrar of Societies had issued Circular in R.C.No.228696/19/CP1 dated 11.12.1991 wherein it is stated that Special Officers cannot be held liable for the additional charge for a particular period. Relevant portion of the said circular is extracted hereunder:

"*Taking Criminal action against the departmental officers holding Chief Executive or Administrative and the posts in the cooperatives who are involved vigorously has also been examined. The departmental officers, working on foreign service terms in cooperative organizations may not have the chance to scrutinize each and every transactions of the society. Though they may have an over all 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 on negligence and this may be dealt with though officers who are not directly involved in the frame or misappropriations need not be included as delinquents, in a routine manner, in the inquiry reports or complaint filed with the police****.*"

5. The Learned Counsel appearing for the respondents submitted that there is an erratum to the above circular and the same is concealed by the petitioner. The erratum was issued vide Letter No.228696/90/P-1 dated 30.01.1992. In the original circular it is stated "it is found that such omission by the inspecting / Supervision Officer is not what only committed by the officer". In erratum it is stated "*unless during the enquiry it is found that such omission by the inspection / supervisory officer is wantonly committed by the officer*".

6. The Court has bestowed its consideration on the rival submissions. On

perusal of the above clause 8 and the Circular, it is seen that if the Special Officer is not directly involved and the allegation is only lack of supervisory power, then the disciplinary action and the criminal prosecution need not be initiated in routine manner.

7. However, based on the erratum clause, it is stated that no disciplinary action need be recommended. The said erratum clause is culled out hereunder and the bold letters are the exact erratum clause:

> *"It is therefore informed that no disciplinary action need be recommended in the enquiry report against the inspection and supervision staff who visited the society or who may fail to take up inspection of the society,* ***unless during the enquiry it is found that such omission by the inspection / supervisory officer is wantonly committed by the officer"***

On the perusal of the erratum clause, it is clear that the same speaks of disciplinary proceedings and not about criminal prosecution. Infact failure to do supervisory work by itself is not a criminal act. And "wantonly failed to supervise" also will not come within the purview of criminal act. As stated supra even the erratum clause speaks of initiation of "disciplinary proceedings" and not of criminal prosecution. Therefore, this Court is of the considered opinion even the allegation of "wantonly failed to supervise" will not come within the purview of criminal laws at all.

8. Infact the main allegation against the 1st accused is misappropriation of money and financial irregularities. The 1st accused N.Sekar had been assigned with the duties and functions of the Secretary who is fully responsible for all deposits and payments, maintain records for the amounts credited into the society's account, disburse crop insurance amount to the beneficiaries, prepare vouchers, maintain ledgers, make necessary entries into the accounts of the society.

9. But there is no allegation of misappropriation of money and financial irregularities against the petitioner / 2nd accused. The 2nd accused / petitioner is assigned with the power of Special Officer. The Special Officer is having the powers of the Board i.e. in the absence of the Board the Special Officer ought to exercise the powers of the Board. The Guidelines issued under RC.79650/2001 SF.4 dated 04.06.2001 states the duties of the Special Officer as supervisory in nature.

10. It is pertinent to state during the relevant time, the petitioner was holding the post of Sub Registrar / Field Officer and was in regular charge of 16 Primary Agricultural Cooperative Credit Societies. Besides the above regular charge, the petitioner was given additional charge for 9 other cooperative societies. The present

MD. Spl. 28. Primary Cooperative Society would come as one among the 9 additional charges. The duties of the petitioner under regular charge are to conduct scrutiny, lend loan, recover the dues, file execution petition, initiate recovery action for 16 Primary Agricultural Cooperative Credit Societies. Besides participating in the scrutiny meetings conducted by the Joint Registrar as well as the Deputy Registrar in all the societies. In addition to the above the petitioner was holding the post of Special Officer, which is additional charge for 9 societies and the present society is one among the 9 societies.

11. Further the 1st accused N.Sekar, had given confessional statement that he himself committed financial irregularities to the tune of Rs.1,59,685/- and liable for accrued interest thereon at Rs.53,838/- and had agreed to pay the said amount of loss caused by him to the society and accordingly he remitted the amount of loss caused by misappropriation of fund of Rs.2,13,523/-.

12. Furthermore, the Inquiry Officer recommended for serious disciplinary action against the Secretary N.Sekar, who has directly involved in the commission of criminal offences and there is no recommendation against the 2nd accused for disciplinary proceedings. This fact is admitted by the respondent in their status report filed in the present case. Further it is seen that

neither in the inquiry report under Sec. 81 nor in the complaint given to the 1st respondent police, no specific overtact against the petitioner. In the FIR it is stated that the 2nd accused colluded with 1st accused and deliberately failed to supervise the proper disbursement of insurance to the agricultural farmer. On the bare reading of the FIR would clearly indicate there is no specific overtact of misappropriation against the petitioner / 2nd accused. Even the 1st accused N.Sekar did not implicate the petitioner for any of the irregularities.

13. The respondent however alleges there is conspiracy against the petitioner. It is seen the FIR was registered in the year 2020 and according to the respondent still the case is under investigation. But the allegation of conspiracy is only a bald allegation and no evidence was placed before this Court. There is no material evidence to connect the petitioner with the alleged financial irregularities and misappropriation, it is only simple "omission of supervisory power".

14. The failure to do supervisory power was dealt with by a Learned Singel Judge in the case of Anbalagan Vs. State passed in Crl.O.P.(MD)No. 20309 of 2016 vide order dated 20.07.2018 wherein it is held that such negligence may create civil liability and there cannot be any vicarious liability

in the criminal law and the relevant portion is extracted hereunder:

"*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"*

15. In the aforesaid Anbalagan's case, the Court had relied on the following judgments:

"i. S.Gunasekaran Vs. State rep. by Inspector of Police [2008] 1 Crimes (HC) 681, wherein it is held,

"*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"*

2. R.Udaiyar Vs. The State of Tamilnadu rep. by the Inspector of Police C.C.I.W., CID, (Sivagangai) Crl.O.P(MD)No.9639 of 2006 of Madurai Bench of this Court dated 12.08.2009.

3.P.Jegadeesan Vs. The Inspector of Police Commercial Crime Investigation Wing, Trichy and another Crl.O.P(MD)Nos. 18221 and

18222 of 2013 of Madurai Bench of this Court dated 21.02.2014

4.N.Baskaran Vs. State rep. by the Inspector of Police C.C.I.W., Trichy and another Crl.O.P(MD)No.16336 of 2016, Madurai Bench of this Court dated 06.10.2016, has followed the aforesaid S.Gunasekaran's case."

16. The Anbalagan's case was relied on in another case by the Learned Singel Judge in Saravanan Vs. The Deputy Superintendent of Police and others in Crl.O.P.(MD)No.13210 of 2017 dated 15.11.2019 and in K.Mathivanan Vs. the Inspector of Police and another in Cr.O.P.(MD)No.s2034 and 2037 of 2022 dated 11.03.2022.

17. Therefore, this Court is of the considered opinion that the aforesaid judgments are squarely applicable to the present case. Further, the aforesaid Clause 8 read with the Circular with erratum is applicable for the petitioner and the present case. Furthermore, this Court is of the considered opinion that there is no prima facie material available against the petitioner in order to make the petitioner undergo the trial before the Court below.

18. For the reasons stated supra, this Court is inclined to quash the FIR in Crime No.1 of 2020 as far as the petitioner alone is concerned and accordingly, quashed. Accordingly, the Criminal Original Petition is allowed. Consequently,

connected miscellaneous petition is closed.

23-10-2025

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To

1. The Inspector of Police
Commercial Crime Investigation Wing, Madurai Rural.

2. The Deputy Registrar
Cooperative Society, Usilampatti (i) Thirumangalam, 23/4 Rajaram,
11th street, Jawahar nagar, Thirumangalam 625 706, Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench Of Madras High Court,
Madurai.