



CRL.A(MD).No.260, 287 and 353 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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|               |   |            |
|---------------|---|------------|
| Reserved On   | : | 20.12.2023 |
| Pronounced On | : | 12.03.2024 |

CORAM

**THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

Crl.A.(MD)Nos.260, 287 and 353 of 2022  
and  
Crl.M.P(MD).Nos.6522 and 11798 of 2023

**Crl.A(MD).No.260 of 2022:**

1. V.Ravibalan

2. V.Ramesh Kumar ... Appellants/Accused Nos.4 & 5

Vs.

State represented by,

The Deputy Superintendent of Police,

Economic Offence Wing-II,

Dindigul

(in Crime No.03/2012)

... Respondent/ Complainant

**PRAYER:** Appeal filed under Section 11 of TNPID Act, to call for the records from the file of the Special Court under Tamilnadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Madurai, and set aside the judgment of the trial Court passed in C.C.No.33 of 2013 dated 03.03.2022 by allowing this appeal and acquit the



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Appellants/Accused 4 and 5.

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For Appellants : Ms.S.Prabha  
For Respondent : Mr.T.Senthil Kumar,  
Additional Public Prosecutor

**Crl.A.(MD)No.287 of 2022:**

Paramasivam

..Petitioner

*(now Convict No.1108/2022 and confined at Central Prison,Madurai No. 2)*

Vs.

State, rep. by,  
The Deputy Superintendent of Police,  
Economic Offences Wing-II,  
Dindigul.  
(Crime No.3/2012)

.. Respondent

**PRAYER:** Appeal filed under Section 11 of TNPID Act, to call for the records and set aside the Judgment and Conviction dated 03.03.2022 by the learned Special Judge, Special Court of TNPID Act Cases, Madurai in Calendar Case No.33 of 2013 and acquit the Appellant.

For Appellant : Mr.S.Rajamanickam  
For Respondent : Mr.T.Senthil Kumar,  
Additional Public Prosecutor



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**Crl.A.(MD)No.353 of 2022:**

R.Panneer Selvam

.. Petitioner/Appellant

Vs.

State rep by,

The Deputy Superintendent of Police,

Economic Offences Wing-II,

Dindigul.

(Crime No.3 of 2012)

.. Respondent/ Respondent

**PRAYER:** Appeal filed under Section 11 of TNPID Act, to call for the records from the lower court, set aside the conviction and sentence imposed on the appellant/accused passed in C.C.No.33/2013 dated 03.03.2022 on the file of the Special Court under the Tamilnadu Protection of Interest of Depositors (In financial Establishment) Act, 1997, Madurai and allow this appeal.

For Appellant : Mr.S.Rajamanickam

For Respondent : Mr.T.Senthil Kumar,  
Additional Public Prosecutor

### **COMMON JUDGMENT**

*Since all these appeals are arising out of the same crime number, these criminal appeals are taken up together for hearing and disposed of by way of this common order.*



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2. The Accused Nos.2 to 5 in C.C.No.33 of 2013 on the file of the Special Court under the TNPID Act, Madurai, are the appellants before this Court. They filed these appeals challenging the conviction and sentence passed by the Special Court as follows:

| <b>Rank</b> | <b>Conviction for the Offence punishable under Section</b> | <b>Sentence of imprisonment</b>                                                                                    |
|-------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| A2 to A5    | 5 of TNPID Act                                             | 10 years R.I. each, and to pay a fine of Rs. 1,00,000/- each, in default, to undergo one year simple imprisonment. |
| A2 to A5    | 120B IPC                                                   | 10 years R.I each, and to pay a fine of Rs. 1,00,000/- each, in default, to undergo one year simple imprisonment.  |
| A2 to A5    | 406 IPC                                                    | 3 years R.I each, and to pay a fine of Rs. 10,000/-, in default, to undergo 3 months simple imprisonment.          |
| A2 to A5    | 420 IPC                                                    | 7 years R.I each, and to pay a fine of Rs. 10,000/- each, in default, to undergo 6 months simple imprisonment.     |



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|             |         |                                                                                                                |
|-------------|---------|----------------------------------------------------------------------------------------------------------------|
| A2, A4 & A5 | 468 IPC | 7 years R.I each, and to pay a fine of Rs. 10,000/- each, in default, to undergo 6 months simple imprisonment. |
| A2, A4 & A5 | 471 IPC | 7 years R.I each, and to pay a fine of Rs. 10,000/- each, in default, to undergo 6 months simple imprisonment. |

3. The appellant in Crl.A(MD)No.287 of 2022, namely, Paramasivam is the Managing Director of the Subhashree EMU Forms India Private Limited, namely, the first accused in C.C.No.33 of 2013. The appellant/A3 in Crl.A(MD)No.353 of 2022 is another Director. The appellants/A4 & A5 in Crl.A(MD)No.260 of 2022 are the close associates of the other accused. All the accused collected the deposits from the public, ie., from 177 depositors and the collected amount was Rs.4,65,09,000/-. According to the prosecution, they collected the said amount under the following schemes.

| Schemes | Benefit |
|---------|---------|
|---------|---------|



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**Scheme No.1**

If the depositors deposits, 1 unit ie., Rs.1,50,000 for 2 years, the accused financial establishment,

- (i) will supply 6 EMU birds,
- (ii) they will construct sheds for EMU chicks
- (iii) will provide feeds,
- (iv) will provide free insurance to the EMU birds
- (v) will provide free medical check-up and free medicines to maintain the EMU birds
- (vi) will pay Rs.9000/- per month for 24 months
- (vii) will pay Rs.15,000/- as yearly bonus for 2 years and (viii) they will refund the deposit amount of Rs. 1,50,000/- after 2 years.



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Scheme No.2

If the depositors deposits, 1 unit ie., Rs.1,50,000 for 2 years, the accused financial establishment,

- (i) will allot 6 EMU birds to the depositor
- (ii) will maintain the birds,
- (iii) will pay Rs.10,000/- p.m for 24 months
- (iv) will pay Rs.15,000/- as yearly bonus for 2 years and (v) after maturity period of 24 months, the deposit amount Rs.1,50,000/- will be refunded.

Scheme No.3

If the depositors deposits, 1 unit ie., Rs.1,50,000/- for 3 years, the accused financial establishment,

- (i) will supply 24 Goats and they will construct the shed for Goats, will provide feeds, free insurance to the Goats, free medical check-ups and free medicines to maintain the Goats, will pay Rs.9000/-p.m., for 36 months and will pay Rs.10,000/- as yearly bonus for 3 years and will refund the deposit amount of Rs. 1,50,000/- after the maturity period.



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4. The accused defaulted to repay the deposit as well as the profits as promised by them. Hence one Karuppiah-P.W1 made a complaint before the respondent police and the respondent police registered the case for the offence under Sections 409, 420, 120(b), 468, 471 IPC and Section 5 of Tamil Nadu Protection of Interest of the Depositors (in financial establishment) Act, 1997 (in short TNPID Act). Thereafter, the investigation was conducted. During the course of the investigation, the investigating officer found that the Accused Nos.4 and 5 made a false complaint against the said company for which they had given the five agreements. Hence, the investigating officer conducted investigation in this aspect also and filed the final report against the appellants and the Company/A1 for the offences as stated supra. The learned trial Judge had taken on file the above final report in C.C.No.33 of 2013.

5. To prove the prosecution case, the prosecution examined P.W1 to P.W195 and marked Ex.P1 to Ex.P452. The learned trial Judge questioned the accused under Section 313 Cr.P.C putting the incriminating materials available against them on the basis of the above prosecution evidence. They denied the same as false and on the side of the defence, they examined two witnesses namely, D.W1 and D.W2 and they deposed for the



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appellants. D.W1, more particularly, deposed about as follows:

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10 வருடம் முன்னால் நான் அந்த ஈழு கோழி கம்பெனிக்கு சாப்பாடு கொண்டு போய் கொடுத்தேன். எதிரிகள் 3,4,5 ஆகியோரை தெரியும். 3ம் எதிரி பன்னீர் செல்வம் கோழி கம்பெனியில் இருப்பார்.

6. The learned trial Judge considered all aspect and convicted the appellants for the above stated offences and also passed the sentence as stated above by the impugned judgement dated 03.03.2022. Challenging the same, the appellants have filed these criminal appeals before this Court.

7. The learned counsel for the appellants/A2 & A3 made the following submissions:

7.1. A2 and A3 are the Directors of the Subhasri EMU Farms India Private Ltd., namely, the first accused. In the company, they are doing the business of rearing of EMU birds. As per the business, they entered the separate agreement with the individual persons. As per the agreement, they received the advance amount from each individuals and constructed the shed meant for the growth of the EMU birds. After construction, they



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handed over the EMU birds and also food for the said EMU birds.

Thereafter, after giving feed and medicine, they agreed to pay a particular amount every month to the depositors. Even as per the evidence of all the prosecution witnesses, they constructed the shed and supplied the EMU birds and also made frequent monthly payments. The allegation is that subsequently, they did not make the monthly payments. In the said circumstances, the said transaction will never come under the provisions of TNPID Act. They conducted the lawful business. Therefore, there is no criminal element in the entire transaction and hence he argued that the registration of case under TNPID Act itself is illegal and filing the final report and the consequential framing of charge and conviction are also illegal. Further, the learned counsel for the appellants submitted that the offence under Section 420 IPC is not made out. They entered the agreement and as per the agreement, A2 & A3 constructed the shed and supplied EMU birds and also made monthly payments. Subsequently, there was some default and then the case upon the individual persons were filed as per the endorsement of the agreement. In the said circumstances, the offence under Section 420 IPC also is not made out.

7.2. It is not the case of the any witness that on the basis of the



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agreement, the appellants never constructed the shed and failed to supply the EMU birds and also feed and medicine for the birds. In the said circumstances, the non-payment of the incentive and profit does not amount to cheating and the offence under the TNPID Act. Out of the receipt of Rs.2,00,000/- as advance, the appellants spent more money to construct the shed and to supply the EMU birds, feed and medicine. Hence, more than 80 % of the amount was spent for the above purpose. Hence, the conviction is liable to be set aside.

7.3. The learned counsel for the appellants stated that it was inadvertently an averment was made in the appeal grounds in Crl.A(MD)No.287 of 2022, more particularly, in ground No.14 as follows:

*14.The learned Special Judge failed to consider when the AI finance company was closed there were 7445 emu birds were abandoned because of arrest of the accused. All the 7445 emu birds were not maintained by the respondent police which were seized and attached by the DRO in G.O.Ms.No.711 dated 21.09.2012. The petitioner have run a big plant and industry to promote the animal husbandry under 51A(j) of the Constitution of India.*

The above said ground was to be deleted and the case is to be considered



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on merits.

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7.4. After the registration of the case, more than 7445 EMU birds were seized by the respondent police and the respondent police not properly taken care of the said birds and also other animals available in the company property. In the said circumstances, the investigating officer has not correctly conducted the investigation and hence he seeks for the acquittal of the appellants.

7.5. The learned counsel for the appellants/A4 & A5 in Crl.A(MD)No.260 of 2022 submitted that 195 witnesses were examined. Among the 195 witnesses, three witnesses were cross-examined, namely, PW193, 194 and 195. Two witnesses turned hostile. None of the witnesses spoke about the specific role attributed against the appellants namely, A4 & A5 in the C.C.No.33 of 2013. It is the admitted case of the prosecution that they were not the Directors of the said company. Without any connecting material, these appellants also were prosecuted and erroneously convicted by the learned trial Judge. The learned counsel for the appellants/A4 & A5 has admitted that even assuming that they participated



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in the affairs of the company, their role is only limited to the extent that they collected the amount and they never actually participated in the affairs and there was no evidence that they swindled the amount. To substantiate his argument, he relied upon the judgement of this Court in Crl.R.C.No. 591 of 2009, Crl.R.C.No.481 of 2015, Crl.A.(MD)No.119 of 2015. On the basis of the above unreported judgements of this Court, he specifically stated that in the above all cases, this Court held that without any other material, the collection agents are not liable to be prosecuted and hence he seeks for acquittal.

8. The learned Additional Public Prosecutor submitted that all the accused never cross-examined all the witnesses. They cross examined only three witnesses PW.193, P.W194 & P.W195. Even in that cross examination, nothing is elicited to disprove the charges framed against them. They not only entered the agreement but they received the payment and also they gave a false promise that they would give periodical monthly amount on the said deposit of Rs.2 lakhs apart from the construction of the shed, supply of EMU birds, feed and medicine. Only because of the said promise of monthly payment, it became attractive offer in the public domain. All the depositors entered the agreement and made the payment of



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Rs.2,00,000/-. The appellants also covered more number of depositors and made monthly payment to number of persons. Suddenly they closed the Company without making monthly payment as promised by them. Hence, the offence is clearly made out under the provisions of the TNPID Act apart from the offence under Section 420 IPC. They issued the pamphlets in the name of incentives to depositors. Hence the argument of the learned counsel for the appellants that the offence is not made out under the TNPID Act is not legally correct. The witnesses were never cross-examined. It is well settled that when the evidence is unchallenged one, the chief examinations can be considered. In all the evidence, there is a specific overt act against each accused including A4 & A5. It is the specific evidence of all the depositors that all the accused collected the amount. There was no cross-examination on the side of the accused. In the said circumstances, he seeks for the confirmation of the conviction and sentence.

9. The judgement relied by the learned counsel for A4 & A5, namely the appellant in Crl.A(MD)No.260 of 2022 is not applicable to the present case since in that case only allegation is that they collected the deposit but in this case, more than that they created the documents and also deposited



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in the said Company and created the document as if the liability is more than crores. In that aspect, it is clear that in order to escape from the criminal liability, they created the documents. Hence, in all aspects, the offence is made out against the appellants and hence he seeks for dismissal of these appeals.

10. This Court has considered the rival submissions made by both side and perused the various records, impugned judgement and the precedents relied upon by them.

11. Whether the conviction and sentence passed against the appellants by the learned trial Judge is in accordance with law?

12. From the prosecution evidence, it is clear that A1 is the Company. A2 & A3 are the Directors and A4 & A5 are the active participants in the said Company. All the witnesses deposed that all the accused collected the deposits and they have defaulted in their repayment. The accused No.A2 and A3 started the first accused company and collected deposit from the number of persons with a promise to put the shed for the development of the EMU bird and further promised to pay a sum of Rs.



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10,000/- per unit and promised to pay a sum of Rs.15,000/- per annum as an incentive. They collected a sum of Rs.1,50,000/- for each unit, but, failed to repay a sum of Rs.10,000/- per month and Rs.15,000/- incentive per annum. A2, A4 and A5 had prepared bank pamphlets and agreement to make them believe that they are genuine in order to get deposit from the prosecution witnesses namely the depositors. Therefore, the prosecution witnesses made a complaint to the respondent police and the respondent police registered a case under Sections 406, 420, 120(B), 468, 471 of IPC and 5 of the TNPID Act. A2 and A4 had created false documents to show that A1's company is indebted to A5 and also created some documents as if indebted amount was repaid through A2 to A5. Totally 177 depositors preferred a complaint for the amount of Rs.4,65,09,000/-. The accused never took any steps to repay the said amount. All the witnesses examined on the side of the prosecution as a depositor namely 188 persons (except three witnesses) deposed cogently in the following terms:

“வழக்கின் எதிரிகளைத் தெரியும்”.

“எதிரிகள் தங்களது நிறுவனத்தில் பல கவர்ச்சிகரமான திட்டங்கள் இருப்பதாகவும் அதில் முதலீடு செய்தால் அதிக வருமானம் ஈட்டலாம் என்றும் ரூ.1,50,000 முதலீடு செய்தால் எதிரிகள் 6 ஈழு கோழிக்குஞ்சுகள்



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கொடுப்பதாகவும் முதலீடு செய்பவர் இடத்தில்  
செட் அமைத்து கொடுப்பதாகவும்  
கோழிக்குண்டான தீவணம் மருத்துவ பராமரிப்பு  
எதிரிகள் நிறுவனத்திலிருந்தே செய்வதாகவும்,  
முதலீடு செய்யும் பணத்திற்கு ஒரு யூனிட்டிற்கு  
மாதம் ரூ.10 ஆயிரம் வருவாயாக  
கொடுப்பதாகவும் வருடத்திற்கு ரூ.15 ஆயிரம்  
ஊக்கத்தொகை கொடுப்பதாகவும் கூறினார்கள்.  
அதை நம்பி மேற்படி வைப்பீடு பணத்தை 2  
வருட முடிவில் திருப்பி தருவதாகவும்  
கூறினார்கள். கடந்த 2012 ம் வருடத்தில் 2  
யூனிட்டிற்காக ரூ.3 லட்சத்தை எதிரிகள்  
நிறுவனத்தில் வைப்பீடாக செய்தேன்".

13. From the above deposition of each witnesses, it is clear that all the accused received the deposits. They were also identified by all the witnesses. The testimony of the said witnesses were not challenged by way of cross-examination. All the accused did not independently cross-examine the witnesses namely P.W.1 to P.W.40, P.W.50 to P.W.135, P.W.136 to P.W.138. Therefore, their evidence in chief examination is without any challenge.

14. It is settled law, when the evidence of chief examination is not



challenged, the chief examination shall be taken as true. On the basis of the unchallenged evidence, conviction can be passed. The Hon'ble Supreme Court in this aspect has held as follows:

***Rajinder Pershad v. Darshana Devi, (2001) 7 SCC 69 at page 70***

*4. ... There is an age-old rule that if you dispute the correctness of the statement of a witness you must give him opportunity to explain his statement by drawing his attention to that part of it which is objected to as untrue, otherwise you cannot impeach his credit. In State of U.P. v. Nahar Singh [(1998) 3 SCC 561 : 1998 SCC (Cri) 850] a Bench of this Court (to which I was a party) stated the principle that Section 138 of the Evidence Act confers a valuable right to cross-examine a witness tendered in evidence by the opposite party. The scope of that provision is enlarged by Section 146 of the Evidence Act by permitting a witness to be questioned, inter alia, to test his veracity. It was observed: (SCC p. 567, para 14)*

*“14. The oft-quoted observation of Lord Herschell, L.C. in Browne v. Dunn [(1893) 6 R 67 (HL)] clearly elucidates the principle underlying those provisions. It reads thus:*

*‘I cannot help saying, that it seems to me to be absolutely essential to the proper conduct of a cause, where it is intended to suggest that a witness is not speaking the*



*truth on a particular point, to direct his attention to the fact by some questions put in cross-examination showing that that imputation is intended to be made, and not to take his evidence and pass it by as a matter altogether unchallenged, and then, when it is impossible for him to explain, as perhaps he might have been able to do if such questions had been put to him, the circumstances which, it is suggested, indicate that the story he tells ought not to be believed, to argue that he is a witness unworthy of credit. My Lords, I have always understood that if you intend to impeach a witness, you are bound, whilst he is in the box, to give an opportunity of making any explanation which is open to him; and, as it seems to me, that is not only a rule of professional practice in the conduct of a case, but it is essential to fair play and fair dealing with witnesses. ' "*

***Paulmeli v. State of T.N., (2014) 13 SCC 90 at page 97***

*16. It is a settled legal proposition that in case the question is not put to the witness in cross-examination who could furnish explanation on a particular issue, the correctness or legality of the said fact/issue could not be raised. (Vide Atluri Brahmanandam v. Anne Sai Bapuji [(2010) 14 SCC 466 : (2012) 1 SCC (Civ) 644 : AIR 2011 SC 545] and Laxmibai v. Bhagwantbuva [(2013) 4 SCC 97 : (2013) 2 SCC (Civ) 480] .)*



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15. Hence, in this case, the prosecution examined 188 depositors as P.W.1 to P.W.188. Some of the accused cross examined only three witness P.W.193, 194 and 195. Even though they cross examined, nothing is elicited in favour of the appellants. They are cogent in their case that all the appellants received the deposits and failed to repay the same. P.W.49 alone was declared as hostile, on the ground that he received the entire amount from the accused. Remaining witnesses namely P.W.1 to P.W.48, P.W.50 to P.W.193 were not cross examined. Therefore, as per the above law laid down by the Hon'ble Supreme Court, the evidence of P.W.1 to P.W.48, P.W.50 to P.W.193 clearly prove the charge under Sections 120(B), 406, 420 of IPC r/w 5 of the TNPID Act,1997.

16. Mrs.Prabha, learned counsel for the accused No.4 and 5 and appellants in Crl.A.(MD).No.260 of 2022 submitted that A4 and A5 are not partner nor director of A1's company and they never involved in the day to day affairs of the company and hence, the charge against the accused Nos.4 and 5 is not proved. She placed unreported judgments of this Court in Crl.R.C.No.591 of 2009, Crl.R.C.No.481 of 2015 and Crl.A.(MD).No.119 of 2015 and specifically submitted that in similar circumstances, this Court quashed the proceedings and acquitted the accused.



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17. This Court perused the above precedents. In Crl.R.C.No.481 of 2015 this Court allowed the discharge petition filed by one of the accused on the ground that there was no material to show the involvement of the accused in the day to day affairs of that financial institution and the said accused only canvassed the deposits for the financial institution. Similarly, in Crl.R.C.No.591 of 2009 and Crl.A.(MD).No.119 of 2015, there was no evidence against the accused about the participation in the above affairs apart from collecting the deposits. But in this case, according to the evidence of the witnesses they collected and they issued the pamphlets and collected the amount as if they are the actively involved in the day to day affairs of A1's company. The said testimony has not been challenged during the course of the cross examination. Apart from that the accused No.A4 and A5 also created document to show that A1's company is indebted to A5. Further, A2, A4, A4 had prepared pamphlets and agreement to believe that they are genuine. In the said circumstances, the submission of the Mrs.Prabha learned counsel for the accused Nos.4 and 5 deserves to be rejected.

18. Further, the prosecution also proved the specific charge against



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the A4 and A5 that they created the records as if they are also depositors of the said Firm. The specific charge against the appellants/A4 and A5 under Section 471 IPC, ie., Charge No.6 reads as follows:

“ஆறாவது குற்றச்சாட்டு:

1, 2, 3, 4, 5 குற்றச்சாட்டுகளின் தொடர்ச்சியாக அதே நாள் அதே நேரம் நீர் அனைவரும் மேற்சொன்ன விதத்தில் 169 நபர்களிடம் U:/4.28.97.000?I (ரூபாய் நான்கு கோடியே இருபத்தி எட்டு இலட்சத்து தொண்ணூற்றி ஏழாயிரம்) வரை பல்வேறு தேதிகளில் நீர் பெற்றுள்ளீர் மேலும் 4 வது எதிரி, 1வது எதிரி நிறுவனத்தில் மிகப்பெரிய தொகைகளை முதலீடு செய்ததாகவும் அந்த தொகையை 1வது எதிரி நிறுவனம் திருப்பி தரவில்லை என்று காவல்துறையில் புகார் செய்து அதற்கு ஆதரவாக 5 ஒப்பந்த பத்திரங்களில் 2வது எதிரியின் கையொப்பத்தை செலுத்தி 1வது எதிரி நிறுவனத்தையும் மற்றும் காவல்துறையையும் ஏமாற்றியதற்காகவும் 5வது எதிரி 1வது எதிரி நிறுவனத்தில் மிகப்பெரிய தொகைகளை முதலீடு செய்ததாகவும் அந்த தொகைகளுக்கு முத்திரை தாள்களில் 2வது எதிரியின் கையொப்பத்தை செலுத்தி 1வது எதிரி நிறுவனத்தை ஏமாற்றியதற்காக குற்றமுறு வகையில் பயன்படுத்தியுள்ளீர் என்றும் அதன் வழி இதச பிரிவு 471 இன் கீழ் இந்நீதிமன்றத்தால் தண்டிக்கத்தக்கதும் விசாரிக்கத்தக்கதுமான ஒரு குற்றத்தை செய்துள்ளீர்கள் என இந்நீதிமன்றம் உம்மீது இதச பிரிவு 471 இன் கீழ் ஒரு குற்றச்சாட்டு வணைகிறது”.

19. The witnesses specifically deposed about the charge. But there was no cross examination in the said aspect. Hence, A2, A4 and A5 had



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forged some documents to show that A4 had deposited huge amount in the company, A5 deposited some amount in the A1's company and hence, they created forged document to swindle the amount from A1 company. Therefore, the offence under Section 471 of IPC against A2, A4 and A5 is clearly proved by the prosecution beyond reasonable doubt. In the said circumstances, as rightly pointed out by the learned Additional Public Prosecutor, their case that they are the collection agents cannot be accepted and all the accused are collectively involved in this case and therefore, the conviction and sentence passed by the learned trial Judge, is in accordance with law. Hence, the prosecution clearly proved the case on the basis of the oral evidence, more particularly, in this case, the accused never denied the document of agreement filed by the prosecution agency through the concerned depositors. Neither A4 or A5 questioned the said agreement and they had not even asked any question to any witnesses relating to the above transaction. In the said circumstances, there is no reason to differ with the finding of the learned trial Judge. Hence, the conviction passed against the appellants is confirmed.

20. Before considering the question of sentence, it is relevant to note the following object of the TNPID Act 1997:



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*“There is mushroom growth of Financial Establishments not covered by the Reserve Bank of India Act, 1934 (Central Act II of 1934) in the State in the recent past with the sole object of grabbing money received as deposits from the public, mostly middle class and poor, on the promise of unprecedented high rates of interest and without any obligation of refund the deposits to the investors on maturity. Many of these Financial Establishments have defaulted to return the deposits on maturity to the public running to crores of rupees and thereby inviting public resentment, which created law and order problems in the State. The Government have, therefore, decided to undertake suitable legislation, in the public interest, in order to regulate the activities of such Financial Establishments, other than those covered by the Reserve Bank of India Act, 1934 (Central Act II of 1934).*

*2.The Bill seeks to give effect to the above decision”.*

21. As per the evidence of the depositors, all the accused swindled the public money to the tune of Rs.4,65,09,000/-. Even after number of years, they have not taken any steps to make the repayment. Even this Court asked during number of hearings to settle the amount, for which



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each accused skipped the responsibility and made rival accusation against each other. From their conduct, this Court can easily infer that they have no intention to repay the amount. In the said circumstances, as held by the Hon'ble Supreme Court, punishment is to be proportionate to the offence. Further, they have committed the offence of cheating by making the false promise. In the said circumstances, this Court is not inclined to reduce the sentence imposed against the appellants.

22. Hence, this appeal is dismissed. The conviction and sentence passed by the learned Special Judge, Special Court for TNPID Cases, Madurai in C.C.No.33 of 2013 vide judgment dated 03.03.2022 is hereby confirmed. Consequently, connected miscellaneous petitions are closed. The learned trial judge is directed to secure the appellants to undergo the sentence of imprisonment imposed on them.

**12.03.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
PJJ/*sbn*



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To

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- 1.The Special Judge,  
Special Court of TNPID Act Cases,  
Madurai.
2. The Deputy Superintendent of Police,  
Economic Offence Wing-II,  
Dindigul.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.
- 4.The Section Officer,  
Criminal Section (Records),  
Madurai Bench of Madras High Court,  
Madurai.



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**K.K.RAMAKRISHNAN, J.**

PJL/sbn

**Predelivery Judgments made in  
Crl.A(MD)Nos.260, 287 and 353 of 2022**

**12.03.2024**