

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21-9-2015

Pronounced on : 5-10-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.24767 of 2014
M.P.Nos.1 of 2014 & 1 of 2015

1.Dr.George Neelankavil

2.Dr.Lily Neelankavil

... Petitioners/Accused 16 & 15

Vs.

State, rep.by

The Deputy Superintendent of Police,
EOW-II, Anna Nagar,
Chennai - 600 040.

... Respondent/Complainant

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to call for the records in C.C.No.1 of 2014 pending on the file of the learned Special Judge, TNPID Court, Chennai and quash the same as against the petitioners.

For Petitioners : Mr.V.S.Senthilkumar

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

For Petitioner in : Mr.S.Udayakumar
M.P.No.1/2015

O R D E R

On a complaint lodged by one Ragothaman, the respondent Police registered a case in Crime No.1 of 2010 and after completing investigation filed final report before the Special Court under TNPID Act Cases for offence under Section 5 of the TNPID Act and Section 406, 420 read with 120B IPC against 23 accused, challenging which George Neelankavil (A-16) and Lily Neelankavil (A-15) are before this Court for quashing the prosecution against them.

2. Heard Mr.V.S.Senthilkumar, learned Counsel for the petitioners as well as Mr.C.Emalias, learned Additional Public Prosecutor appearing for the respondent.

3. It is the case of the prosecution that M/s.JBJ City Developers Ltd (A-1), M/s.JBJ Builders and Promoters (A-2), M/s.JBJ Tours and Travels (A-3), M/s.JBJ Hotels and Resorts (A-4), M/s.JBJ Chits Private Limited (A-5), M/s.JBJ Foundation (A-6), and M/s.Abode Lee Hedges Impex Private Limited (A-7) were all founded by Justin Devadoss @ David (A-8) and Bella Justin (A-9). The said companies accepted deposits from the Public and committed default in the year 2010, on account of which the case in Crime No.1 of 2010 was registered on the complaint given by the said Ragothaman, and after completing investigation, final report as stated above has been filed by the respondent Police.

4. The allegation made against the petitioners in the final report are as follows:

"The investigation revealed that the accused registered M/s.JBJ City Developers Ltd., with the Registrar of Companies in No.54701 by showing the following as the Directors of the Company (1) Justin Devadoss, (2) Bella Justin, (3) Rajan Edward, (4) Arokiasamy, (5) Joseph Dinesh, (6) Selvakumar, (7) Thambu Rajan, (8) Lilly Nelan Kavil, (9) Dr.George J.Neelani Kavil), (10) Samuel Knudson.

The investigation revealed that the accused A-8 Justin Devadoss @ David, A-9 Bella Justin registered the Companies M/s.JBJ City Developers Ltd. (A-2), M/s.JBJ Chits (P) Ltd (A-5), M/s.JBJ Hotels and Resorts (P) Ltd (A-4), M/s.JBJ Foundation (A-6), M/s.JBJ Builders and Promoters (P) Ltd (A-2), M/s.JBJ Tours and Travels (P) Ltd (A-3), with the Registrar of Companies vide Nos.1) 54701, 2) 66010, 3) 66011, 4) 68925, 5) 61553, 6) 66013 in the year 2004 respectively.

The investigation revealed that the accused registered A-6 M/s.JBJ Foundations with the Registrar of Companies vide No.68975 in the year 2004 by showing 1.Justin Devadoss and 2.Bella Justin as Directors."

Thus, the allegation in the final report is that these petitioners were Directors in M/s.JBJ City Developers Limited, which was founded in the year 2004 by Justin Devadoss and Bella Justin.

5. The learned Counsel appearing for the petitioners submitted that the petitioners were Directors when the Company was founded in the year 2004, but they resigned from the Directorship as early as on 28.1.2008. In support of this plea, the learned counsel produced Form-32, wherein it is clearly stated that the petitioners herein have resigned from the Company on 28.1.2008 itself. The prosecution has no answer to this factual plea. Even on going through the statements recorded by the Police, there is no material to show that these petitioners were involved in the offence committed by the financial establishment.

6. Under Section 5 of the TNPID Act, persons who were in the management of the financial establishment at the time when the offence was committed can alone be made criminally liable. In these cases, the deposit itself was made by the defacto complainant only on 9.9.2008 and the default occurred in the year 2010. The petitioners have resigned from the Company as early as 28.1.2008. Under such circumstances, this Court is of the view that the petitioners cannot be mulcted with criminal liability.

7. In the result, this petition is allowed and the proceedings as against the petitioners in C.C.No.1 of 2014 on the file of the Special Court for TNPID Act Cases, are hereby quashed. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

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To

Sub Assistant Registrar

1. The Deputy Superintendent of Police,
EOW-II, Anna Nagar, Chennai - 600 040.

2. The Special Judge,
TNPID Court, Chennai.

3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.24767 of 2014

KK(CO)
CA(12/10/2015)