

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Cr1.O.P.No.24420 of 2014

M.P.No.1/14 and 856 of 2016

B.Baskar

.. Petitioner

Vs.

The State Represented by
The Inspector of Police,
Economic Offences Wing,
Namakkal District.

(Ref Crime No.133/2013 dated 12.02.2013) .. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the proceedings pending in C.C.No.31/2013 on the file of the Special Court under TNPID Financial Establishment Act 1997, Coimbatore, as against the petitioner Accused -7 for offences under Sections 406, 420 IPC and Section 5 of Tamil Nadu Protection of Interest of Depositors Act, 1997 (herein after referred as TNPID Act 1997) and Section 120(B), 406, 420, 467 and 468 IPC.

For Petitioner :Mr, A.Ramesh, Senior Counsel
for Mr.C.Arun Kumar

For Respondent :Mr.C.Emalias
Addl. Public Prosecutor

सत्यमेव जयते
O R D E R

The petitioner has come forward with this petition to quash the proceedings pending in C.C.No.31/2013 on the file of the Special Court under TNPID Financial Establishment Act 1997, Coimbatore, as against the petitioner for offences under Sections 406, 420 IPC and Section 5 of Tamil Nadu Protection of Interest of Depositors Act, 1997 and Section 120(B), 467 and 468 IPC stating that the respondent police has registered a case in Crime No.133 of 2013 and filed final report, which was taken cognizance in C.C.No.31 of 2013 against 10 persons. A1 is the Company and A2, A3, A4 and A10 are the members of the same family and they are alone running the firm and they collected

the deposit from the public and misappropriated the same. But this Petitioner, who is A7, who is the partner of A6, has sold the bus bearing Registration No.TN 63 S 4282 to A2 along with route document. Already A6 filed an application in CrI.O.P.No.33156 of 2013, in which by an order dated 22.2.2014, the proceedings against A6 has been quashed.

2. Heard the learned senior counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3. Since the petitioner who is A7, who is partner of the firm and who stands on the same footing as A6, he is also entitled to quash the proceedings in C.C.No.31 of 2013 and prayed for order.

4. Resisting the same, the learned Additional Public Prosecutor would submit that this petitioner along with others has collected deposits from 392 depositors to the tune of Rs.10 crores and repaid Rs.3.60 lakhs and balance payable is Rs.6.48 lakhs. But he fairly conceded that the Order passed by this Court in Cr.O.P.No.33156 of 2013 has not been challenged. However, he prayed for dismissal.

5. Considering the rival submissions and on perusal of typed set of papers, on complaint by one Lakshmanan, the respondent police has registered a case and after investigation filed the charge sheet against Velavan Garden City Developers, which was run by the accused 2 to 4 and 10, who have collected deposits from 392 persons and not repaid that amount, which was taken on file in C.C.No.31 of 2013. In that A5 to A9 were added as accused. Out of which A6 to A9 are the bus owners. It is pertinent to note that A8 and A9 have filed CrI.O.P.Nos.1141 of 2014 and 1979 of 2014 and the proceedings against them has been quashed. A6 and A7 are the partners, who owns the bus bearing Registration No.TN 63 S 4282, have been sold it for Rs.75 lakhs along with the route Karur to Thambampatti. It is the case of the prosecution that the said Rs.75 lakhs has already been paid to A2, towards the deposit collected from the public. But they have received the amount as sale proceeds for sale of the bus bearing Registration No.TN 63 S 4282 along with the route Karur to Thambampatti.

6. The learned Additional Public Prosecutor would fairly concede that the proceedings against the similarly placed A6 was quashed in CrI.O.P.No.33156 of 2013 and it was not challenged. In the final report itself, it was stated that A6 and A7 are the

owners of the bus, who sold the bus for Rs.75 lakhs and the amount is with A2. In such circumstances, merely because the petitioner who is A7 has sold the bus to A2, who allegedly committed the offence, will not be liable for prosecution. In the earlier proceedings in Crl.O.P.No. 33156 of 2013, it has been specifically stated as follows :

"It is seen that the petitioner is only owner of the bus. Accused 2 to 4 and 10 are the persons said to be in-charge of the business of the offending firms. The mere act of these petitioner in effecting sale of bus belonging to her, as also transferring route permits in favour of the fourth accused by no stretch of imagination, can lead to inference of culpability of her in the wrong doing of other accused."

7. Furthermore, it is pertinent to note that in the vacated stay petition filed by the respondent it has been stated in para 2 that now A2 is willing to settle the amount to the depositors who are all cheated by him and so it is essential to vacate the interim stay. At this juncture, the learned Additional Public Prosecutor wants earlier settlement of this matter. Considering the same, as this matter is likely to be settled, it is fit case for quashing the proceedings against A7.

8. Hence as stated Supra, this petition is allowed and the proceedings in C.C.No.31 of 2013 against A7 is hereby quashed. Further the learned Special Judge, Special Court under TNPID Financial Establishment Act 1997, Coimbatore, is directed to take effective steps to settle the amount to the depositors. Consequently, the connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(J)

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सत्यमेव जयते

Sub Assistant Registrar

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To

1.The Special Judge,
Special Court Under TNPID Financial
Establishment Act 1997, Coimbatore.

2.The Inspector of Police
Economic Offences Wing,
Namakkal Dt.

3. The Public Prosecutor
High Court, Chennai.

+2cc to Mr.C.Arunkumar, Advocate, S.R.No.6660

CrI.O.P.No.24420 of 2014

ca(CO)
srg(11/02/2016)



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