



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.03.2017
CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No.1556 of 2017

Kalaiselvi : Petitioner

Vs.

1.State represented through
the Principal Secretary,
Home (Police XIX) Department,
Secretariat,
Chennai - 600 009.

2.The Director General of Police,
D.G.P.Office,
Kamarajar Salai,
Chennai - 600 004.

3.The Additional Director General of Police,
ADGP Office,
Economic Offences Wing,
Chennai - 600 032.

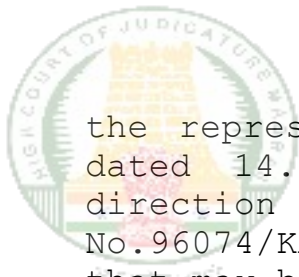
4.The Superintendent of Police,
Economic Offences Wing-II,
Thiru.Vi.Ka. Industrial Zone,
SIPCOT, 1st Floor,
Guindy, Chennai - 600 040.

5.The Deputy Superintendent of Police,
Economic Offences Wing -II,
Vishwanathapuram,
Madurai District.

6.The Inspector of Police,
Economic Offences Wing-II,
Vishwanathapuram,
Madurai District.

: Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to direct the respondent to refund the invested money a sum of Rs.6,70,000/- (Six Lakhs and Seventy Thousand only) to the petitioner based on



the representation dated 26.12.2016 in the light of G.O.(D) 32, dated 14.01.2015 on the file of the 1st respondent and the direction issued by the 1st respondent vide proceedings in Kaditha No.96074/KA.19/2016, dated 28.12.2016, within a stipulated time that may be framed by this Hon'ble Court.

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For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.B.Pugalendhi,
Additional Advocate General,
Assisted by Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

O R D E R

The sixth respondent registered a case in Crime No.4 of 2014 on 17.10.2014 and after completing the investigation, has filed a charge sheet before the Special Court for TNPID Act Cases, Madurai, in C.C.No.11 of 2015, for offences under Sections 406, 420, 120-B of the Indian Penal Code and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act, 1997 and Sections 4 and 5 of Prices and Chits and Money Circulation Schemes (Banning) Act, 1978, against thirteen accused. The accused have been running four concerns, viz., Madurai Rural Development Transformation India Limited, Madurai Rural Development Benefit Fund India Limited, Madurai Rural Development Transformation Chits Limited and Madurai Rural Development Transformation Cloud Hostings Limited. The principal accused being Madurai Rural Development Transformation India Limited.

2. It is the case of the prosecution that the aforesaid companies had collected deposits from Public to the tune of Rs.60 Crores and had failed to repay the deposits. In this regard, one of the accused approached this Court and came forward to settle the depositors. The case was taken up in appeal in W.A.(MD)No.1267 of 2014 by a Division Bench of this Court and the order dated 14.11.2014 came to be passed, which is as under:

"6. We may add, at this stage, that as per the learned counsel for the appellant, the appellant company is willing to settle the dues. The Director of the company is stated to be also present, as per the directions issued by this Court, on 12.11.2013. We put to the learned Assistant Solicitor General and the learned Special Government Pleader for the State that there be a mechanism for verifying the investors' claim and the process of refund would require to be monitored by them. This is more so, as all amounts are not available in liquid form, in view of the submission of the learned counsel for the appellant that land, measuring 385 acres, is available which would have to satisfy the claim of the investors. The cash available is only Rs.23 crores. It is claimed that the lands worth Rs.40 crores.



7. Learned Assistant Solicitor General and the learned Special Government pleader assure that this matter will be discussed and an appropriate committee will be constituted to monitor the process of verification and refund of investors and also to deal with the land in question. Such Committee be constituted within a period of one month from today.

8. We hope that such a Committee would be also to settle the claim of the investors.

9. In order to initially monitor this aspect and to ensure that progress is being made by the Committee, list for Report of the Committee on 14.03.2015. Report to be filed a week before 14.03.2015. Let copy of this order be furnished to all parties."

3. Thereafter, what transpired is best explained in paragraph Nos.5 to 8 of the counter-affidavit filed by the police, which are as under:

"5. It is respectfully submitted that in accordance with the order passed by the Division Bench of this Hon'ble Court the Committee constituted by the Government of India ensured five sittings i.e. 06.02.2015, 19.02.2015, 06.03.2015, 27.04.2015 and 18.08.2015 and suggested various measures to be pursued to ensure equitable distribution of the deposits and that two special reports dated 06.03.2015 and again on 15.06.2015 as ordered by this Hon'ble Court have been filed before this Hon'ble Court and the Division Bench of this Hon'ble Court on perusing the detailed report filed by the then Deputy Superintendent of Police, Economic Offences Wing II, Madurai as well as the proceedings before the committee, while closing the writ appeal on 22.06.2015 observed that

"we are satisfied that steps have been taken to monitor the process of verification and refund of investors. Appropriate orders under section 3 of the TNPID Act, 1997, is awaited from Government towards ad-interim attachment of properties procured out of the deposits collected by the 1st respondent company and the Committee shall follow up action with the Government and proceed further, in accordance with law. Request for pro-rate payment to the investors, has to be considered by the TNPID Act".

<https://hcservices.ecourts.gov.in/hcser/cps/> It is respectfully submitted that in order to make the Ad-interim attachment orders as absolute O.A.(with regard cash freezed) was filed by the



Competent Authority/District Revenue Officer, Madurai District. OA was filed on 17.11.2015 in OA Nos. 03/16 and 04/16. It is respectfully submitted that the TNPID Court, Madurai issued summons nearly three times to the following persons namely A5.Suresh Batcha, A6 Ramarathinam, A.7 Srikumar, A13.Lilun Nihar, A14-Rajalakshmi, A15-Lataji. Out of the above mentioned persons, instead of A6, A7 an advocate appeared and A5, A13, A14, A15 failed appear. Hence the attachment for Rs.20,49,91,152.94/- & Rs.91,79,756.04 in G.O.Ms.No.721 and 722 was not made absolute by TNPID Court till date, as a result, the CA/DRO who is one of the committee member was not able to proceed further. Moreover the scrutinisation & investigation clearly reveals 385 Acres is not available as stated by the petitioner/Accused in Writ Appeal No.1267/2014.

7. It is respectfully submitted that out of 221.37 acres land lie in and 201.17 acres of land is located in the village by name kariyapatti in Virudhunagar district and the remaining in Madurai District. The guideline value of all the 221.37 acres including Madurai and Virudhunagar is only Rs.2,03,86,742/-. There is a huge gap/mismatch between the assets available and amount to be repaid to the depositors. The assets and cash seized are insufficient. So far movable and immovable property (including cash freezed) approximately worth Rs.24,63,93,244 were identified and proposals were sent for ad-interim attachment orders.

8. It is respectfully submitted that one the committee members as well as the competent authority viz, District Revenue Officer, Madurai District upon receipt of ad-interim attachment order for the following properties 1) 221.37 acres worth Rs.2,03,86,742/- 2) Gold ornaments and silver articles worth Rs.8,77,840/- 3) Immovable land properties worth Rs.23,74,182/- and 4) Shares of various companies worth above Rs.1,86,41,168.5 will file appropriate original petitions under section 4 of TNPID Act for making the ad-interim attachments absolute under section 7 of the Act and then seek permission from the Learned Special Court for TNPID Act Cases, Madurai under Section 7(7) of the said Act for selling the properties on public auction and thereafter will file an application seeking for equitable distribution among the depositors of the money attached or realised on the sale in terms of Section 7(8) of the TNPID Act. On the process of trial pending before the Learned Special Court for TNPID Act cases shall be



expedited to its logical conclusion."

4. The petitioner, who is one of the investors, has come forward with the above prayer for a direction to the respondent police to follow the guidelines set forth by the Division Bench as stated above.

5. Heard Mr.R.Karunanidhi, learned counsel for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General, assisted by Mr.A.P.Balasubramani, learned Government Advocate (Crl.side) appearing for the State.

6. A careful reading of the order of the Division Bench shows that no positive directions have been issued, because, the Division Bench was aware that the TNPID Act itself provides for a mechanism to settle the amount to investors and depositors. In this case, the District Revenue Officer has been appointed as the competent authority under Section 4 of TNPID Act and the Government has also issued orders of interim attachment. It is reported that the application has been filed as early as on 17.11.2015 before the Special Court for TNPID Act Cases, Madurai, for making the attachment absolute and that the petition is still pending. Under such circumstances, when a statutory authority is seized of the claims, this Court cannot appoint a parallel authority, as it would amount to interdicting the statutory provisions.

7. In the result, this Criminal Original Petition is closed with a direction to the Special Judge, TNPID Act Cases, Madurai, to pass appropriate orders, within a period of three months from the date of receipt of a copy of this order, on the petition filed by the competent authority under Section 7 of TNPID Act in O.A.Nos.3 and 4 of 2016 and also monitor the disbursement in accordance with law, expeditiously.

Sd/-

Assistant Registrar(A.S)

/True Copy/

Sub Assistant Registrar

To

1.The Special Judge,
TNPID Act Court,

<https://hcservices.gov.in/hcservices/>



2.The Principal Secretary,
Home (Police XIX) Department,
Secretariat,
Chennai - 600 009.

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3.The Director General of Police,
D.G.P.Office,
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Vishwanathapuram,
Madurai District.

7.The Inspector of Police,
Economic Offences Wing-II,
Vishwanathapuram,
Madurai District.

8.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Karunanidhi,Advocate,SR.14441

Order made in
Crl.O.P. (MD) No.1556 of 2017
Dated: 14.03.2017

SML

KK-SV-MMS-03.04.2017-6P-10C