



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD)No.6018 of 2017

and

CRL.M.P(MD) .Nos.4054 & 8738 of 2017

R.Selvaraj ... Petitioner/Accused No.1
-Vs-

1.State represented by,
The Inspector of Police,
Economic Offences Wing - II,
Karur.
(Crime No.1 of 2017)

2.S.Saravanan ... Respondents/Respondents

PRAYER: Petition filed under Section 482 of Code of Criminal Procedure, to quash the FIR in Cr.No.1 of 2017 dated 03.04.2017 on the file of the first respondent police.

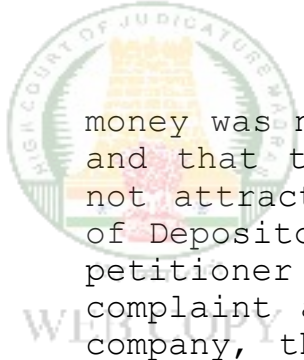
For Petitioner : Mr.B.Saravanan
For Respondent No.1 : Mr.K.S.Durai Pandian
Additional Public Prosecutor
For Respondent No.2 : No appearance

O R D E R

This Criminal Original petition is filed to quash the First Information Report in Crime No.1 of 2017, pending before the first respondent police.

2. The case of the petitioner is that a complaint was lodged by the second respondent as against the petitioner in Crime No.1 of 2017 before the first respondent police for offences under Sections 406, 420, 120 (b) of I.P.C and under Section 5 of the Tamil Nadu Protection of Interest of Depositors Act.

3.The case of the petitioner is that the money advanced to the petitioner by the defacto complainant is a loan after securing pro-note in favour of the defacto complainant. The learned counsel for the petitioner further submitted that the defacto complainant has issued legal notice even in March 2016, stating that the money advanced to the petitioner was only a loan transaction and that the loan was also supported by a pro-note. Since, the non-payment of money does not attract any of the provisions in which the case was registered, the learned counsel for the petitioner submitted that the complaint cannot be sustained. It is further submitted that the



money was not paid to the petitioner as a deposit for a fixed period and that therefore, the transaction alleged in the complaint will not attract Section 2(2) of the Tamil Nadu Protection of Interests of Depositors Act 1997. In this case, it can be seen that the first petitioner is the Director of M/s.Selvamagal Benefit Fund. The complaint against the petitioner and the benefit fund is that the company, through paper advertisement offered high rate of interest of the depositors with a promise that the depositors can get their money on demand along with interest.

4.It is further stated in the complaint that the complainant deposited a sum of Rs.5 lakhs in the finance company. However, the Managing Director of the company, namely, the petitioner handed over only a Promissory Note signed by the petitioner with the seal of the finance company. The complaint also states about the enquiry by the defacto complainant. It is stated categorically by the complainant that the petitioner made the defacto complainant to believe that the pro-note was given for the present, under the pretext that deposit receipts are expected to come after printing. It was further stated that under the promise to hand over regular deposit receipts, the finance company gave the Promissory Note, which was to be kept by the defacto complainant, till such time, the finance company gives the petitioner, the deposit receipt. It was further stated by the defacto complainant that when the depositors demanded the money on 06.05.2015, the defacto complainant and others were not paid and that the petitioner and others tried to cheat them. The amount alleged to have been deposited by the defacto complainant and his friend, according to the complainant exceeds Rs.56 lakhs. In such circumstances, this Court, *Prima facie* find that the complaint discloses offences under Sections 406, 420 and 120(b), r/w 5 of the TNPID Act.

5.The learned counsel for the petitioner, pointed out that the legal notice earlier issued by the defacto complainant, refers to the transaction as a loan transaction and that the money was advanced not as a deposit but, as a loan secured by the pro-note agreeing to repay the money on demand. The submission of petitioner cannot be examined at this stage, as the complaint lodged by the second respondent discloses the offence by collection of huge money under false promise and misrepresentation. The petitioner handed over the signed pro-note instead of giving the deposit receipt. The learned counsel for the petitioner then submitted that no other document except the pro-note and the legal notice have been filed by the defacto complainant. The case of the defacto complainant can also be proved or established by other evidence at the time of trial. The probability of the case cannot be a reason for this Court to entertain the petition for quashing the complaint of the First Information Report.

6.In that view of the matter, this Criminal Original Petition is dismissed. However, the respondent shall take into account the specific objection of the petitioner even at the time of framing the



charges or filing the charge sheet and the respondents shall also consider the submission and the points raised by the petitioner during the course of the investigation before filing the final report.

7. With the above observations, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Economic Offences Wing - II,
Karur.

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

+1cc to Mr.B.SARAVANAN Advocate in SR. No. 81569

SSS/MR

JS/GT/SAR.1/7.11.2017/3P-4C

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