



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.07.2017

CORAM:

THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No.8448 of 2017
and
Crl.M.P.(MD)No.5712 of 2017

K.Nammalvar : Petitioner/
De-facto Complainant

-vs-

The State of Tamil Nadu
Rep.by its Inspector of Police,
E.O.W-II, Madurai
(Cr.No.11 of 2000) : Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to withdraw C.C.No.5 of 2015 on the file of the Chief Judicial Magistrate, Madurai and transfer the same on to the file of Special Court for TNPID Act, Madurai.

For Petitioner : Mr.K.P.S.Palanivel Rajan
For Respondent : Mr.K.Anbarasan
Government Advocate (Crl.Side)

ORDER

This petition is filed for withdrawing C.C.No.5 of 2015 on the file of the Chief Judicial Magistrate, Madurai and transfer the same on to the file of Special Court for TNPID Act, Madurai.

2.The petitioner stated that he had deposited a sum of Rs.2,61,000/- in the name of his wife, his sister, his son and his own name with one G.R.M.Finance (P) Ltd and that the said finance company issued 21 bonds. Though the petitioner admits that he had received interest till November 1999, the company had closed down their business and that therefore, the petitioner was constrained to give a complaint against the finance company before the respondent. The complaint was registered in Crime No.11 of 2000, for offences punishable under Sections 120B, 406, 409 and 420 I.P.C. Thereafter, investigation was completed and charge sheet was filed once again for the offences under Sections 120B, 406, 409 and 420 I.P.C. It was also also taken up on file as C.C.No.5 of 2015 before the Chief Judicial Magistrate, Madurai.



3. It is the specific case of the petitioner that the offences alleged against the company and Directors would attract the penal provision under Section 5 of Tamil Nadu Protection of Interest of Depositors Act, 1997. Since the respondent has not charged the company for the offences under the provisions of Tamil Nadu Protection of Interest of Depositors Act, 1997, it is alleged that the respondent had failed to take cognizance taking judicial notice under Section 57 of Indian Evidence Act, and Section 6(2) and 6(3) of the Tamil Nadu Protection of Interest of Depositors Act. Sections 6(2) and 6(3) of the Tamil Nadu Protection of Interest of Depositors Act read as follows:

"(2). No court including the court constituted under the Presidency Town Insolvency Act 1920 (Central Act V of 1920), other than the Special Court shall have jurisdiction in respect of any matter to which the provision of this Act apply.

(3). Any pending case in any court to which the provisions of this Act apply shall stand transferred to the Special Court."

4. In view of the specific provision of the Tamil Nadu Protection of Interest of Depositors Act, the complaint lodged by the petitioner ought to have been registered for the offences under the provisions of Tamil Nadu Protection of Interest of Depositors Act. It is, therefore, stated that the criminal proceedings in C.C.No.5 of 2015 on the file of learned Chief Judicial Magistrate, Madurai is required to be transferred on to the file of Special Court for Tamil Nadu Protection of Interest of Depositors Act cases. As a result, this Criminal Original Petition is Allowed. The criminal proceedings in C.C.No.5 of 2015 on the file of the learned Chief Judicial Magistrate, Madurai, is required to be transferred on to the file of Special Court for Tamil Nadu Protection of Interest of Depositors Act cases, Madurai and the transferee Court is further directed to alter the case attracting provisions of Tamil Nadu Protection of Interest of Depositors Act.

Sd/-

Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To:

1. The Chief Judicial Magistrate,
Madurai.

<https://hcservices.co.in/>
2. The Special Court for TNPID Act,
Madurai.



3.The Inspector of Police,
E.O.W-II, Madurai.

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

+1cc to Mr.K.P.S.Palanivel Rajan,Advocate,SR.68236

CrI.O.P.(MD) No.8448 of 2017
26.07.2017

SRM/LS

KK/SV AAM/SAR 4/01.08.2017/ 3P- 6C/