

BAIL SLIP

The Appellant herein/Accused viz., Kanagaraj, S/o.Arumuga Gounder, was directed to be released on bail as per order of this court dated 15.12.2009, made in CrI.M.P.No.1 of 2009 in CrI.A.No.789 of 2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

CrI.A.No.789 of 2009

and

CrI.A.Nos.279 & 300 of 2010

CrI.A.No.789 of 2009

1. M/s.Arthi Chandru Investments,
rep.by A-3, Kanagaraj,
No.43, A2, Sakthi Road,
Ganapathy, Coimbatore.
Rep. by 2nd Appellant Kanagaraj.

2. Kanagaraj .. Appellants/Accused 1 & 3

Versus

1. State rep.by
The Inspector of Police,
Economic Offences Wing -2,
Coimbatore.

[Crime.No.1 of 2002]

..1st Respondent/Complainant

2. Jothimani,
D-7, Police Quarters,
Gandhipuram, Chithapurdur, Coimbatore.

[R2 is Suo motu impleaded as
second respondent as per the
order of this Court, dt.05.02.2015
made in CrI.A.No.789/2009]

.. 2nd Respondent

Crl.A.Nos.279 & 300 of 2010

State rep.by
The Inspector of Police,
Economic Offences Wing -II,
Coimbatore.
[Crime No.01/2002]

.. Appellant/Complainant
(in both Crl.A.Nos')

Versus

Goundey Gounder

.. Respondent/Accused No.2
(in Crl.A.No.279/2010)

Kanagaraaj

.. Respondent/Accused No.3
(in Crl.A.No.300/2010)

Prayer in Crl.A.No.789 of 2009:

Criminal Appeal is filed under Section 374(2) of Cr.P.C.,
pleased to set aside the conviction and sentence made in
S.C.No.47 of 2008 on the file of the Special Court under Tamil
Nadu protection of Interest of Depositors (In Financial
Establishments) Act 1997, Coimbatore dated 30.11.2009 insofar as
the appellants are concerned and acquit the Appellants/Accused
1 and 3.

Prayer in Crl.A.No.279 of 2010:

Criminal Appeal is filed under Section 11 of the Tamilnadu
Protection of Interest of Depositors (In Financial
Establishments) Act 1997, r/w Section 377 of Cr.P.C., pleased to
allow this appeal and set aside the judgment of acquittal of the
respondent/accused [A-2] passed by the Hon'ble Special Court
under TNPID Act, 1997, Coimbatore in C.C.No.47 of 2008, dated
30.11.2009.

Prayer in Crl.A.No.300 of 2010:

Criminal Appeal is filed under Section 11 of the Tamilnadu
Protection of Interest of Depositors (In Financial
Establishments) Act 1997, r/w Section 377 of Cr.P.C., pleased to
enhance the sentence passed by the trial court in C.C.No.47 of
2008, dated 30.11.2009 by the Hon'ble Special Court under TNPID
Act, 1997, impose maximum sentence on the respondent / accused
[A-3].

Appearance in Crl.A.No.789/2009:

For Appellants	:	Mr.B.Kumarasamy for Mr.S.Gunalan
For Respondents	:	Mrs.T.P.Savitha Government Advocate (Crl.Side)

Appearance in CrI.A.No.279 of 2010:

For Appellant : Mrs.T.P.Savitha
Government Advocate (CrI.Side)

For Respondent : Mr.R.Saravanan for
M/s.Sai Bharath & Ilan

Appearance in CrI.A.No.300 of 2010:

For Appellant : Mrs.T.P.Savitha
Government Advocate (CrI.Side)

For Respondent : Mr.B.Kumarasamy
for Mr.S.Gunalan.

C O M M O N J U D G M E N T

The case of the prosecution is that accused 2 and 3, as partners of the first accused firm, were running a financial institution in the name of style of "Arthi Chandru Investments (A1). During the course of the business, accused 2 and 3 have collected several amounts from depositors, but, they did not repay the amount on maturity. In this context, several complaints were given to the Inspector of Police, Economic Offence Wing, Coimbatore, based on which, the case in Crime No.1 of 2002 came to be registered for the offence punishable under Section 5 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act 1997, (in short TNPID) Act. After investigation, the Investigation Officer filed a charge sheet which was taken on file as C.C.No.47 of 2008 by the learned Special Judge under the TNPID Act, 1997, Coimbatore. As per the charge sheet the firm which was represented by A2 and A3, was arrayed as A1 along with A2 and A3 as its partners. After conclusion of trial the learned Special Judge convicted the accused A1, firm for the offence under Section 5 of the TNPID Act, 1997, and sentence to pay fine of Rs.10,000/-. Since the first accused happened to be a firm the fine amount was directed to be paid by the A3. At the same time, the Trial Court has found that prosecution has not proved the case against A2 and therefore, A2 was acquitted from the charges. As regards, the A3, the Trial Court has found him guilty of the offence under Section 5 of the TNPID Act, 1997 and sentence him to undergo rigorous imprisonment for a period of one year together (2 counts) with fine amount of Rs.25,000/-, failing which, to undergo simple imprisonment for a period of three months. However, the trial court ordered that the sentence imposed on the A3 shall run concurrently.

2. Challenging the conviction and sentence imposed on the A1 Crl.O.P.No.789 of 2009 is filed by A1 and A3.

3. The Crl.O.P.Nos.279 & 300 of 2010 have been filed by the prosecution. While Crl.O.P.No.279 of 2010 has been filed as against the acquittal of A2, Crl.O.P.No.300 of 2010 has been filed, seeking to enhance the sentence imposed on the A3.

4. As all these appeals arise out of the Common Judgment passed by the Trial Court, they are taken up together for being disposed of by this Common Judgment.

5. When these appeals are taken up hearing for today, it is brought to the notice of this Court that even before the Trial Court, A3/Kanagaraj settled the amount due payable to PW1 and PW5, but they refused to receive the amount and therefore, the Trial Court, convicted A1 and A3. It is now brought to the notice of this Court that PW1/Ramakrishnan, who earlier refused to receive the amount from the third accused is now ready to receive the amount and to compound the offence as against the third accused. However, as PW1 is bedridden due to his ailment, he authorised his son Ranjith to appear before this Court. Similarly, PW5 Arunachalam is also present before this Court and he states that he has no objection to receive the amount from A-3 and to compound the offence. To this effect, a Memorandum of Understanding dated 21.03.2018 has been entered into between A-3, PW1 and PW5. The said Memorandum of Understanding has been duly signed by A-3, PW5 and Mr. Ranjith, son of PW1. It is categorically stated in the Joint Memo of Compromise that Ranjith, the son of Ramakrishnan/PW1 and Arunachalam/PW5 are ready and willing to receive the amount and to compound the sentence imposed as against the A3.

6. In the Joint Memo of Compromise reference has also been made to the effect that PW1/Ramakrishnan has agreed to receive the amount of Rs.6,10,000/- invested by A-3 which was deposited before the competent authority viz., District Revenue Officer, Coimbatore. Similarly, Arunachalam/PW5 has also agreed to receive a sum of Rs.25,000/- deposited before the competent authority. It is also stated in the Joint Memo of Compromise that PW1/Ramakrishnan, due to his ailment is taking treatment in hospital in Coimbatore and therefore, he is unable to travel from Coimbatore to Chennai and he has authorised his son Ranjith to sign the compromise memo on his behalf and to compound the sentence imposed on the A3.

7. Having regard the Joint Memo of Compromise entered into between the parties and the categorical statement made on behalf of PW1 and PW5, this court is of the view that, in the interest of the justice the sentence imposed as against the A3 can be

compounded. Consequently, the appeal filed by the prosecution as against the Judgement of acquittal of A2 and for enhancement of sentence imposed as against A3 are liable to be dismissed in terms of the compromise memo.

8. In the result the Criminal Appeal No. 789 of 2009 is allowed by setting aside the Judgment of conviction passed in C.C.No.47 of 2008 dated 30.11.2009 on the file of the Special Court under TNPID Act, 1997, Coimbatore in terms of the Joint Memo of Compromise, dated 21.03.2018, Consequently, Criminal Appeal Nos. 279 and 300 of 2010 filed by the prosecution are dismissed. It is needless to mention that the District Revenue Officer, Coimbatore shall permit PW1 and PW5 to withdrawn amount deposited before him by A-3.

*Xerox copy of Memo of Compromise to be enclosed

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

klr

To

1. The Judge Special Court under TNPID Act, Coimbatore.
2. The Inspector of Police, Economic Offences Wing -2, Coimbatore.
3. The Public Prosecutor, High Court, Madras.

+1cc to Thiru.S.Gunalan, Advocate, S.R.No.21580

WEB COPY

Cr1.A.No.789 of 2009
and
Cr1.A.Nos.279 & 300 of 2010

MR(CO)
CS/24/04/18