IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.07.2018
PRONOUNCED ON : 10.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.15459 of 2018
and Crl.M.P.No.7871 of 2018

M/s Aphro Trust
Rep. by its Founder and President
I.P.Yesudoss
No.24, 2nd Cross Street
VMK Nagar, Surapet Main Road
Vinayagapuram,
Chennai 600 099. .. Petitioner

Vs

1. The Superintendent of Police,
Head Quarters EOW-2,
No.C-48, Block-2,
Sidco Old Corporate Office Building,
Guindy, Chennai - 600 032.

2. S.Arumugam,
S/o G.Selvaraj
Sub-Inspector of Police,
Central Crime Branch, Team-1,
Commissioner of Police Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.

3. Tmt.Radhika,
Deputy Commissioner of Police,
Central Crime Branch, Team-1,
Commissioner of Police Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.

4. Inspector of Police,
Kurinjipadi Police Station,
Reddiyar Colony,
Kurinjipadi, Cuddalore Dist.

5. The Regional Director of Tamilnadu,
Reserve Bank of India,
No.16, Rajaji Salai,
Fort Glacis, Chennai - 600 001.

6. Thiru.Vasanthan,
Chief General Manager,
Reserve Bank of India,
No.16, Rajaji Salai,
Fort Glacis, Chennai - 600 001.

7. The Chief Editor,
Daily Thanthi,
No.86, EVK Sampath Road,
Vepery,
Chennai - 600 007.

8. The Chief Editor,
Junior Vikatan,
No.757, Anna Salai,
Chennai - 600 002.

9. The Commissioner of Police,
Commissioner of Police Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.

10. The Director General of Police,
No.1, Dr.Radhakrishna Salai,
Mylapore, Chennai - 600 004.

11.Vicoria .. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for records pertaining to the 4th FIR registered in CCB Cr.No.446/2012 on the file of the first respondent and quash the same.

For Petitioner : Mr.I.P.Yesudoss, Party-in-Person
For Respondents : Mr.C.Iyyapparaj, Addl.Public Prosecutor (for R1, R4, R9 & R10)

ORDER

This petition has been filed to call for the records in CCB Cr.No.446 of 2012 on the file of the 1st respondent and quash the same.

2.Heard the petitioner/party-in-person and the learned Additional Public Prosecutor appearing for respondents 1, 4, 9 and 10 and perused the materials placed on record.

3.On the complaint lodged by Vicoria, the respondent police have registered a case in Crime No.446 of 2012 on 23.08.2012 under Sections 406, 420 r/w 120-B IPC and 58-B (1) of the Reserve Bank of India Act against I.P.Yesudoss [A1] and Devi [A2], for quashing which, this petition has been filed.

4.Mr.Yesudoss submitted that he was neither doing finance business nor micro finance business, but he was giving loans to his members which has been misconstrued, as if he had collected money from various persons and cheated them. He further contended that the Police have registered 9 FIRs against him for the same cause of action and therefore, undue prejudice has been caused to him, inasmuch as, he is unable to defend himself in all the cases.

5.Per contra, learned Additional Public Prosecutor submitted that 9 FIRs registered against them were based on 9 complaints given by different persons hailing from different areas.

6. The allegation against the petitioner is that he started some legal entities in the names of Aphro Trust, Aphro Finance Services Private Ltd., Aphro Association and Chennai Managaratchi Report; through these Concerns, he made wide publicity all over Tamil Nadu exhorting women to form self-help groups; the leader of the self-help group was made a member on payment of membership fee of around Rs.500/-; the leader was required to collect women members for her group and decide the individual financial need of a member; on the recommendations of the group leader, the Concern gave small term loans at low interest to the individual member, after collecting a sum of Rs.5,000/- upfront. Believing that they would get loan, thousands of women joined the self-help groups throughout Tamil Nadu and paid Rs.5,000/- upfront for getting financial assistance. Financial assistance was given to only a few and much publicity was given to that, whereas, in reality, not everybody who paid Rs.5,000/- was given the assured loan. Since the sum of Rs.5,000/- was very small, many of them did not bother to pursue the matter. However, all these institutions had collected over several crores of rupees in this fashion unjustly. When the individuals started pressuring the group leaders for return of their money, the latter started approaching the police by filing complaints at various places in the State. Only under such circumstance, nine FIRs have been registered against the petitioner and his entities. It cannot be stated that only a single FIR should have been registered,

because, the complainants differ, geographical area differs and the amount of money collected from individual women members differ.

7.This issue has been settled by the Supreme Court in NARINDERJIT SINGH SAHNI AND ANOTHER Vs UNION OF INDIA AND OTHERS [(2002) 2 SCC 210], wherein, it is held as follows:

> "... 60.As regards the issue of a single offence, we are afraid that the fact situation of the matters under consideration would not permit to lend any credence to such a submission. Each individual deposit agreement shall have to be treated as a separate and individual transaction brought about by the allurement of the financial companies, since the parties are different, the amount of deposit is different as also the period for which the deposit was effected. It has all the characteristics of independent transactions and we do not see any compelling reason to hold it otherwise. The plea as raised also cannot have our concurrence. ..."

8. Thus, when there are prima facie materials disclosing commission of a cognizable offence in the FIR, the same cannot be quashed in the light of the law laid down by the Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604].

9. Mr.Yesudoss submitted that he is ready and willing to settle with his members by repaying the amount, but that is not being permitted by the Police.

10. It is always open to him to repay the amount during trial and that can be a good circumstance for mitigation of the sentence. In the light of the aforesaid judgment, the prayer of the petitioner cannot be acceded to. Hence, this petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gms

To

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9.The Public Prosecutor,
High Court, Madras.

Pre-delivery order in
Crl.O.P.No.15459 of 2018

KAN(CO)
TR(27/08/2018)