

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.16326 of 2018
and
CrI.MP.No.8411 of 2018

S.Suresh Kumar

...Petitioner

Vs.

1.State Rep. by
The Inspector of Police
Economic Offence Wing No.2,
Coimbatore.

2.I.Johnson ... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records pertaining to the Criminal proceedings in C.C.No.37/2013 on the file of the Special Court under the TNPID Act, Coimbatore, to quash the proceedings against the petitioner.

For Petitioner : Mr.T.Sundaravathanam
for Mr.V.Janarthanan
For Respondents : Mrs.Kritika Kamal.P
Government Advocate
(CrI.Side) For R1

O R D E R

This criminal original petition has been filed to call for the records in C.C.No.37/2013 on the file of the Special Court under the TNPID Act, Coimbatore, and quash the proceedings against the petitioner.

2. The petitioner is facing a prosecution in C.C.No.37 of 2013 before the Special Court under the TNPID Act, Coimbatore, for the offences under Sections 120-B, 406 and 420 IPC and 5 of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997, along with 4 other accused viz., (1) G.S.Poultry Farms (A1) (2) G.Jeganathan (A3), (3) Murugesh (A4) and Sasikala (A5). The prosecution have examined their witnesses and the accused were questioned under Section 313 Cr.P.C. Thereafter, the matter is posted for defence

evidence. At that juncture, the petitioner has come forward to settle the depositors, by paying the proportionate amount of his share, whereas, the other accused have not come forward to make any payment. On the representation that the matter is likely to be settled, the trial Court has adjourned the case from time to time. Ultimately, the case was posted on 07.06.2018. Hence, the petitioner is before this Court for quashing the prosecution as against him, on the ground of his willingness to pay the proportionate amount.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the first respondent-State.

4. The learned counsel for the petitioner reiterated the petitioner's contention and submitted that the petitioner is ready and willing to pay the proportionate amount to the depositors, whereas, the co-accused are not willing to make any payment.

5. In the opinion of this Court, when there is a charge under Section 120-B IPC, the prosecution cannot be quashed as against the petitioner alone, on the offer made by him. An offence under Section 5 of the TNPID Act is complete when there is default in repaying the depositors. Hence, the proceedings as against the petitioner cannot be quashed. That apart, this Court or the trial Court cannot decide the proportionate share, as contended by the learned counsel for the petitioner. However, the petitioner can show his bona fides, by depositing a sizable amount before the Special Court under the TNPID Act, Coimbatore and in the event of the petitioner being convicted by the trial Court, the deposits made by the petitioner will be a mitigating situation for deciding the quantum of sentence. It is for the trial Court to give time period for such deposits.

With the above observation, this petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Court under the TNPID Act,
Coimbatore.

2.The Inspector of Police
Economic Offence Wing No.2,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Janarthanan, Advocate, S.R.No.40705

Crl.O.P.No.16326 of 2018

GSP(04/07/2018)



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