

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CRL. O.P. No.19356 of 2018

1 S. Viswanathan
2 S. Ganapathy
3 N. Mani
4 K. Raju
5 A. Arokkiyasamy
6 K. Sankar Raman
7 A. Gunasekaran
8 J. Shanmugasundaram
9 V. Murali

Petitioners

vs.

1 Union Territory of Pondicherry
represented by the Superintendent of Police (CID)
Pondicherry (Crime No.31 of 2004)
2 PNL Nidhi Ltd.
represented by its Managing Director
Mission Street, Pondicherry
3 S. Natarajan
4 S.V. Global Mills Ltd.
represented by its Managing Director
5/1, VI Cross Street
C.I.T. Colony, Mylapore, Chennai 600 004
5 The Deputy Superintendent of Police
EOW-II, Cuddalore
Cr. No.7 of 2004

Respondents

Criminal Original Petition in filed under Section 482 Cr.P.C. seeking a direction to the first respondent to ensure deposit of Rs.100 crores payable by the fourth respondent to the third respondent, in the credit of C.C. No.1 of 2011 on the file of the Special Court for PPIDFE Act/Principal Sessions Court, Puducherry, for disbursement to the aggrieved depositors of the second respondent.

For petitioners Mr. V. Vasanthakumar

For R1 Mr. D. Bharatha Chakravarthy
Addl. Public Prosecutor (Puducherry)

For R5 Mrs. Narmada Sampath
Additional Advocate General
assisted by Mr. D. Raja
Additional Govt. Pleader

ORDER

This Criminal Original Petition has been preferred seeking a direction to the first respondent to ensure deposit of Rs.100 crores payable by the fourth respondent to the third respondent, in the credit of C.C. No.1 of 2011 on the file of the Special Court for PPIDFE Act/Principal Sessions Court, Puducherry, for disbursement to the aggrieved depositors of the second respondent.

2 One PNL Nidhi Ltd., the second respondent herein, operating in Puducherry and Cuddalore, went into the red and were not able to repay their depositors, pursuant to which, cases were registered against them in Puducherry and Tamil Nadu and after investigation, in respect of the Puducherry Branch, a final report in C.C.No.1 of 2011 was filed before the Special Court for PPIDFE Act/Principal Sessions Court, Puducherry, under the Puducherry Protection of Interests of Depositors (in Financial Establishments) Act and in respect of the Cuddalore Branch, C.C.No.31 of 2006 was filed before the Special Court under the TNPID Act, Chennai, under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act and both the cases are pending trial.

3 Mr. Vasanthakumar, learned counsel for the petitioners submitted that admittedly, one S. Natarajan, a Chartered Accountant by profession, the third respondent herein, is accused no.12 in C.C. No.1 of 2011; there are some litigations between the said Natarajan and one M.Ethiraj, which had gone upto the Supreme Court in S.L.P. Nos.22089 and 22090 of 2017, in which, the Supreme Court has observed as under:

"By our order dated 10.05.2018, having heard the learned Senior Counsel on either side, this Court directed that a sum of Rs.100 crores be paid to the respondents for the purchase of all the respondent's shares in the Company".

in that litigation before the Supreme Court, an intervention has been made, referring to which, the Supreme Court has observed as under:

"Mrs. Vibha Datta Makhija, learned Senior Counsel, who appears on behalf the Intervener, states that large sums have been defalcated by the Natarajan group, which belong to depositors. She may urge this grievance before the appropriate forum in accordance with law."

on the strength of the aforesaid representation, the petitioners who are depositors of PNL Nidhi Ltd., have preferred this Criminal Original Petition with the above prayer.

4 The learned counsel for the petitioners further submitted that one S.V. Global Mills Ltd., the fourth respondent herein, is liable to pay Rs.100 crores to S. Natarajan and that, that sum should be credited to the account of C.C. No.1 of 2011 for disbursal to the petitioners, who are the investors in PNL Nidhi Ltd.

5 In the opinion of this Court, no such direction can be issued under Section 482 Cr.P.C., because, the accused are prosecuted under the provisions of the Puducherry Protection of Interest of Depositors (in Financial Establishments) Act, 2004, which empowers the Government of Puducherry, to attach the properties of a financial establishment, if the Government has reason to believe that the properties have been acquired by the financial establishment, either in its own name or in the name of other person from and out of the deposits collected by the financial establishment. After registration of the FIR, the police identified several properties of PNL Nidhi Ltd. and the Government of Puducherry have exercised their powers under Section 4(2), *ibid* and have attached those properties. There is no material to show that the sum of Rs.100 crores, which the petitioners are seeking to attach, was acquired by Natarajan, a Chartered Accountant, from and out of the deposits collected by the financial establishment. In other words, the personal earnings of an individual accused, post charge sheet, cannot be attached. That apart, the power to attach under Section 4(2), *ibid*, is vested with the Government and neither a petition under Section 482 Cr.P.C. nor a mandamus can be issued to the Government, especially, when the Government have already attached all the properties of PNL Nidhi Ltd. vide G.O. (Ms.) No.12, Department of Revenue and Disaster Management dated 18.02.2006.

Under such circumstances, this Court is of the view that this Criminal Original Petition is misconceived and accordingly, the same stands dismissed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

cad

To

- 1 The Superintendent of Police (CID)
Union Territory of Pondicherry
Pondicherry
- 2 The Deputy Superintendent of Police
EOW-II, Cuddalore

+1cc to Public Prosecutor (Puducherry) SR.No.53775

Cr1.O.P. No.19356 of 2018

GN(14/08/2018)

सत्यमेव जयते

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