

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[Reserved on : 25.07.2018]

[Pronounced on : 22.10.2018]

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.Nos.1408 and 1409 of 2017
and
Crl.M.P.Nos.13889 and 13890 of 2017

Manikannan ... Petitioner in Crl.R.C.No.1408/2017/A.19

Duraimurugan ... Petitioner in Crl.R.C.No.1409/2017/A.20

.. Vs ..

State rep. by,
Inspector of Police,
EOW-II,
Villupuram District.
(Crime No.49/2013)

... Respondent in both Crl.R.Cs./Complainant

Prayer in both Crl.R.Cs.: Criminal Revision Cases filed under Section 397 r/w. 401 of Cr.P.C., praying to set aside the order dated 09.08.2017 passed by the learned Special Judge under TNPID Act, Chennai, in Crl.M.P.Nos.427 and 428 of 2016 respectively in C.C.No.12 of 2015 pending on the file of the learned Special Judge under TNPID Act, Chennai, and discharge the petitioners.

In both Crl.R.Cs.

For Petitioners : Mr.R.Baskar
For Respondent : Mr.R.Surya Prakash,
Government Advocate

COMMON ORDER

The petitioners herein, who are arrayed as A.19 and A.20 respectively, have preferred petitions in Crl.M.P.Nos.427 and 428 of 2016 respectively in C.C.No.12 of 2015 under Section 239 of Cr.P.C. before the trial Court seeking to discharge them from the case in C.C.No.12 of 2015. After hearing both the parties,

the learned Special Judge under TNPID Act, Chennai, by an order dated 09.08.2017, had dismissed the said petitions and as against the same, the above two criminal revision cases have been filed by the petitioners/Accused Nos.19 and 20 respectively seeking to set aside the said dismissal order passed by the learned Special Judge under TNPID Act, Chennai, in Crl.M.P.Nos.427 and 428 of 2016 respectively in C.C.No.12 of 2015 and discharge them from the case in C.C.No.12 of 2015.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondent.

3. Learned counsel appearing for the revision petitioners would submit that the revision petitioners herein are not involved in the management of the four Financial Establishments, who are arrayed as accused Nos.1, 2, 3 and 4, for which accused Nos.5, 6 and 7 are the only directors. It is further submitted by the learned counsel for the petitioners that the petitioners are distant relative and family friend of the main accused namely, A.K.Muthu, who has been arrayed as accused No.5 in the above case. The petitioners were never Directors in any of the Financial Establishments namely A.1 to A.4 at any point of time and they never held any position in the said four Financial Establishments. Further, the petitioners never participated, either directly or indirectly, in the management of the affairs of the said four Financial Establishments at any point of time. It is also submitted by the learned counsel for the petitioners that the petitioners never instigated or canvassed any depositors to make deposits in the said four Financial Establishments (A.1 to A.4) and they never received any kind of remuneration or pecuniary advantage from any of the said four Financial Establishments (A.1 to A.4) or even from any other person for and on behalf of the said four Financial Establishments and hence, prayed for allowing of the above criminal revision cases by setting aside the order passed by the trial Court and discharge the petitioners from the case in C.C.No.12 of 2015.

4. Learned Government Advocate appearing for the respondent, based on the counter affidavit filed by the Inspector of Police, EOW-II, Villupuram District, submitted that A.5 to A.7 are the Directors of four Financial Establishments viz., Sri Ananda Iswariyam Chit Fund Private Ltd.,/A.1, Ananda Iswariyam Benefit Fund Ltd.,/A.2, Sri Ananda Iswariyam Benefit Fund Private Ltd.,/A.3 and AIBF Limited/A.4 having 15 Branches in and around Villupuram and having Head Office at Chennai, wherein A.8 to A.20 are working as Managers in various branches of the said four Companies. They introduced various chit schemes and gave

promise to give exorbitant interest on the deposit amount in their companies and on believing the same, various depositors have invested their amount in the above said four Companies and on maturity, as agreed by the said Company, they did not settle the amount to the depositors and cheated them and hence, the learned Government Advocate prayed for dismissal of the criminal revision cases.

5. On a perusal of the records, it is seen that the de facto complainant is one of the victim, who was cheated by the accused to the tune of Rs.1,90,000/- and hence, he has preferred the complaint. On receipt of the said complaint, a case was registered by the District Crime Branch, Villupuram District, in Crime No.49 of 2013 for the offence under Section 5 of TNPID Act, 1997 and Section 76 of the Chit Fund Act and under Section 420 IPC. After investigation, based upon 273 complaints, it is assessed that accused Nos.1 to 7 have defrauded the public to the tune of Rs.3,56,27,206/-. It is also seen from the list of witnesses that statements of 273 witnesses have been recorded and some of the witnesses have spoken that A.5 to A.8 have purchased the property in their name vide registered Document No.4078/2010 dated 16.12.2010. The petitioner in Crl.R.C.No.1409 of 2017/A.20, who is a cousin brother of A.5 and was also working as a Manager in Kallakurichi Branch has collected chit amounts from the public, received deposit amount from the Depositors and issued receipts for the same and also did auction also. Subsequently, Accused No.20 has also purchased property in his name from and out of the chit amount while A.19 is the brother of A.6 and he was working as a Manager in Kallakurichi Branch and he was also involved in receiving deposit amount from the depositors and also issued receipts for the same.

6. On a perusal of the statements of witnesses, it is seen that out of 273 victims, 155 victims have given a complaint against A.9, A.10, A.19 and A.20 and according to their statements, the amount runs to the tune of Rs.2,46,28,972/- and the confession statements of A.5, A.7, A.9, A.10 and A.14 are also available in the files produced by the learned Government Advocate. In view of the presence of the overwhelming documents inculcating the statements made for the alleged action of the Kallakurichy Branch, it also appears that the accused have purchased the property during the relevant point of time. The reason assigned by the learned Special Judge under TNPID Act, Chennai, that the probate value of the statement of witnesses has to be gone into only at the time of trial is well merited and well considered and accordingly, both the Criminal Revision Cases are liable to be dismissed.

7.In the result, both the Criminal Revision Cases are dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. Special Judge under TNPID Act,
Chennai.
2. The Inspector of Police,
EOW-II,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

+4ccs to Mr.R.Baskar, Advocate, S.R.No.71844 and 71846

Crl.R.C.Nos.1408 & 1409/2017

VGII(CO)

rrs 19/11/2018

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