IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.24388 of 2018

Sivakumar ...Petitioner/Accused

-Vs-

The Deputy Superintendent of Police,
Economic Offence Wing - II,
Salem District,
Salem. ... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to appoint a committee / administrator for the settlement and disbursement of the claim of the depositors concerned in Crime No.15 of 2017 initially on the file of City Crime Branch, Salem and presently pending on the file of Deputy Superintendent of Police, Economics Office Wing - II, Salem District, Salem.

For Petitioner : Mr.R.John Sathyan for
Mr.N.Anand

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking for an appointment of Committee / Administrator for the settlement and disbursement of the claim of the depositors concerned in Crime No.15 of 2017.

2. The petitioner has been shown as an accused in Crime No.15 of 2017 registered by the respondent / police for an offence under Section 420 of IPC and Section 4 of Prize Chit and Money Circulation Schemes (Banning) Act, 1978. The petitioner was arrested by the respondent police and was remanded to judicial custody and thereafter, he was released on bail by complying with the conditions imposed by the Special Court under the TNPID Act cases, Coimbatore.

3. During the course of investigation, several cases came to be given against the petitioner, since all these depositors had paid their hard earned money to the petitioner towards the chit transaction and were not repaid back the money.

4. The learned counsel appearing for the petitioner would submit that there are sufficient properties available and the same can be sold and the amount can be settled to the depositors. However, the learned counsel would submit that the respondent / police are not properly valuing the property and exorbitant claims are being made by persons who have not actually made any deposit in the chit company. The learned counsel would submit that the respondent / police can continue with the investigation and there must be an independent committee / administrator who should be entrusted with the work of selling the immovable properties and disbursing the amount to the claimants / depositors, after verifying the relevant records and proofs for having deposited the amount. The learned counsel would submit that by undertaking this exercise, the interest of the depositors can be safeguarded, and at the same time, the settlements can be made only to the genuine claimants / depositors and the property available can be sold at the correct market value. According to the learned counsel for the petitioner, this arrangement will not prejudice any of the parties, on the other hand, it will be more beneficial to all the parties concerned.

5. The learned Additional Public Prosecutor would submit that there are totally 1685 depositors who have approached the respondent / police and the total claim that has been made is a sum of Rs.73,83,87,717/-(Rupees seventy three crores eighty three lakhs eighty seven thousand seven hundred and seventeen only). That apart, the respondent police were also able to identify several properties which has been valued by the police at Rs.50,00,000/-(Rupees fifty lakhs only). The learned Additional Public Prosecutor would further submit that the respondent / police are continuing to identify more properties belonging to the petitioner in order to bring all the properties for sale and settle all the depositors. The learned Additional Public Prosecutor ultimately submitted that the respondent / police do not have any objection in forming a committee in order to help the respondent / police to sell the properties belonging to the accused person and disburse the amount received from the sale proceeds to the genuine depositors.

6. This Court has carefully considered the submissions made on either side.

7. In the facts and circumstances of the case, it will be more beneficial for all the parties concerned to have an independent committee to handle the sale of immovable properties

and disbursement of the amount to the genuine depositors. This is more so in this case since it involves a large body of depositors and vast extent of properties belonging to the accused person. To a great extent, it will also reduce the burden on the Investigating Officer and the Investigating Officer can properly concentrate on the investigation.

8. Accordingly, by consent of the parties, the following committee is constituted :

i. Mr.M.Thangarajan, District Judge (Retired), No.12/3, Pragasam Sree Towers, Eswaran Chettiyar Layout, Puliyakulam, Coimbatore (Mobile No.9443202144), is appointed as the Chairman of a committee to supervise the entire process.

ii. The Superintendent of Police, Economic Offense Wing, Chennai is directed to nominate one person in the rank of Deputy Superintendent of Police as a Member of the committee.

iii. The Revenue Divisional Officer, Salem shall be the 3rd Member in the committee. The Revenue Divisional Officer, Salem can also take the assistance of the revenue officials subordinate to him.

9. The above committee shall follow the following directions :-

i. The committee shall scrutinize the claims made by the claimants, inspect the records and satisfy themselves about the genuineness of the claims made.

ii. The properties of the accused person attached and brought for sale shall be sold at the market value or at the best available price commensurate with the prevailing rates.

iii. The entire collection and disbursement must be made only by way of cheques duly signed by the petitioner.

iv. The petitioner shall provide the office space in order to enable the committee to perform their work effectively, by providing all basic facilities.

v. The Investigating Officer in the case shall produce all the original documents pertaining to the properties belonging to the accused person seized in the course of investigation and hand over the same to the committee to enable the committee to proceed further with the sale of the properties.

vi. The Investigating Officer in the case shall produce the depositors before the committee by directing them to produce the valid proof for having made the deposit.

vii. The accused person shall co-operate and furnish necessary particulars to the committee and also help the committee in identifying the depositors.

viii. The accused person is also directed to furnish the entire list of properties to the committee, in order to enable the committee to proceed further to bring those properties for sale and disburse the sale proceeds to the genuine depositors. The committee is directed to exercise its discretion in a lawful manner to resolve any other practical issues arising from time to time. While undertaking the process by following the directives, the accused person must co-operate with the committee for an effective implementation of the scheme of arrangements made by this Court.

xi. The committee shall commence the process within a period of one month from the date of receipt of copy of this order and complete the entire process of selling the properties and disbursing the amount to the genuine depositors, preferably within a period of one year from the date of constitution of the committee.

10. The petitioner is directed to pay a monthly remuneration of Rs.50,000/- to Mr.M.Thangarajan, District Judge (Retired) till the completion of the entire process. The petitioner shall also make necessary travel and other stay arrangements for Mr.M.Thangarajan, District Judge (Retired) till the end of the process.

11. This Criminal Original Petition is disposed of with the above directions. It is left open to the committee to approach this Court by filing an appropriate memo in this Criminal Original Petition in case of any difficulty / clarification required in the process of sale of properties and / or disbursement of the amount to the depositors.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Superintendent of Police,
Economic Offence Wing - II,
Salem District,
Salem.

2. Mr.M.Thangarajan,
District Judge (Retired),
No.12/3, Pragasam Sree Towers,
Eswaran Chettiyar Layout,
Puliyakulam,
Coimbatore
Mobile No.9443202144

3.The Superintendent of Police,
Economic Offense Wing,
Chennai.

4.The Revenue Divisional Officer,
Salem.

5.City Crime Brach,
Salem.

6.The Special Judge,
Special Court under TNPID Act,
Coimbatore.

7.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Prabakaran, Advocate sr.no.88191

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