

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.Nos.25928, 25381, 25932, 25933 & 25938 of 2018
and CrI.M.P.Nos.14869, 14430, 14873, 14875 & 14877 of 2018

P.V.Krishna Prasath ... Petitioner in all CrI.OP's

Versus

1.The State,
Represented by Inspector of Police,
Economic Offence Wing,
Vellore District.

2.M.Kumar ... Respondents in CrI.OP.No.25928 of 2018

1.The State,
Represented by Inspector of Police,
Economic Offence Wing,
Erode District.

2.P.Dineshwaran ... Respondents in CrI.OP.No.25381 of 2018

1.The State,
Represented by Inspector of Police,
Economic Offence Wing,
Kancheepuram District.

2.R.Murugaesan ... Respondents in CrI.OP.No.25932 of 2018

WEB COPY

1.The State,
Represented by Inspector of Police,
Economic Offence Wing,
Cuddalore District.

2.D.Senthil ... Respondents in CrI.OP.No.25933 of 2018

1.The State,
Represented by Inspector of Police,
Economic Offence Wing,
Villupuram District.

2.K.Suresh Kumar ... Respondents in Crl.OP.No.25938 of 2018

PRAYER in Crl.OP.No.25928 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the First Information Report in Cr.No.3 of 2018, on the file Inspector of Police, EOW-II, Vellore and quash the same.

PRAYER in Crl.OP.No.25381 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the First Information Report in Cr.No.1 of 2018, on the file Inspector of Police, EOW, Erode and quash the same.

PRAYER in Crl.OP.No.25932 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the First Information Report in Cr.No.2 of 2018, on the file Inspector of Police, EOW-II, Kancheepuram and quash the same.

PRAYER in Crl.OP.No.25933 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the First Information Report in Cr.No.3 of 2018, on the file Inspector of Police, EOW-II, Cuddalore and quash the same.

PRAYER in Crl.OP.No.25938 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the First Information Report in Cr.No.1 of 2018, on the file Inspector of Police, EOW-II, Villupuram and quash the same.

For Petitioner in all Crl.OP's : Mr.A.Selvendran

For 1st respondent in all Crl.OP's : Mr.Mohamed Riyaz

Additional Public Prosecutor

COMMON ORDER

All these Criminal Original Petitions are filed seeking to quash the F.I.R pending before the various Police stations, who have been shown as the 1st respondent in all the cases.

2.It is seen from the records that the petitioner is a Managing Director of a Group of Chit Companies. Money was collected towards deposit from various subscribers and the same was not repaid back. Therefore, the first complaint came to be filed before the Inspector of Police, Economic Offence Wing-II, Chennai and an F.I.R was registered in Crime No.12 of 2017 for the offence under Section 420, 406 r/w 120(b) IPC and Section 5 of the TNPID Act, 1997. This F.I.R was registered as against eight named accused persons and others. On similar complaints given in various districts, F.I.R's came to be registered in Crime No.1 of 2018 filed by the Inspector of Police EOW-II, Erode; Crime No.1 of 2018 filed by the Inspector of Police EOW-II, Villupuram; Crime No.3 of 2018 filed by the Inspector of Police EOW-II, Vellore; Crime No.2 of 2018 filed by the Inspector of Police EOW-II, Kancheepuram and Crime No.3 of 2018 filed by the Inspector of Police EOW-II, Cuddalore, and investigation is pending in all these cases.

3.Even though, the learned counsel for the petitioner argued for the quashing all the F.I.R, this Court did not find any ground to interfere with the investigation, since it involves public interest wherein deposit money has been collected from various persons.

4.The learned counsel for the petitioner would submit that all the cases can be investigated by a Single Investigating Agency in order to ensure that there is no parallel investigation leading to multiplicity of proceedings.

5.The learned Additional Public Prosecutor on instruction also submitted that all the cases can be investigated by a Single Investigating Agency. The learned Additional Public Prosecutor also suggested that, since the first complaint was filed before the Inspector of Police, Economic Offence Wing-II, Chennai, all the other pending complaints can also be transferred to the same police so that a single police can investigate all the cases more particularly due to the fact that the accused persons are the same and the only variation is the depositors belonging to various places.

6.This Court carefully considered the submissions made on either side. This Court is of the considered view that it will be in the interest of the depositors if all the cases are investigated by Single Investigating Agency. If parallel investigation is permitted, it may lead to unnecessary confusion and multiplicity of proceedings. Therefore, in order to effectively investigate this case, this Court deems it fit to consolidate all the cases pending before various Police stations

and transfer it to the file of the Inspector of Police, EOW-II, Chennai.

7.The learned counsel for the petitioner also brought to the notice of this Court, the Judgment of this Court in Viswapriya [India] Limited (Formerly known as Viswapriya Financial Services and Securities Limited.) Rep. by its Director, Mr.R.Subramanian 75-C, III Cross Street, II Main Road Gandhi Nagar, Adyar, Chennai 600 020....Petitioner in W.P.14229/2015 and M/s.Helios and Matheson Information Technology Ltd., Rep by its Authorized Signatory Mr.D.Sathasivam No.9, Adware Towers, South Boag Road, T.Nagar, Chennai 600 017....Petitioner in W.P.14664/2015 Versus 1.Government of Tamil Nadu rep by its Secretary Home Department St.George, Chennai 600 009. 2.The Deputy Superintendent of Police, EOW-I, Anna Nagar, Chennai. 3.Haripriya Ramachandran....Respondents in W.P.14229/2015 [R3 impleaded as per order of this Court dated 21.07.2015]. The State rep by the Deputy Superintendent of Police, EOW-II, Anna Nagar, Chennai 600 040....Respondents in W.P.14664/2015 reported in 2015-4-L.W.33. The relevant portion of the Judgment is extracted here under:-

"52.The last contention of Mr.Nithyaesh Natraji is that, the respondent has earlier registered a case in Cr.No.2 of 2015 against Helios based on a complaint given by one Ramalingam and when Helios settled the matter with him, it was not proceeded further by the police and again a second FIR has been registered in Cr.No.5 of 2005 on the complaint of one Dr.Ranjith Chittoori, which is illegal in the light of the law laid down by the Supreme Court in T.T.Antony Vs.State of Kerala [(2001) 6 SCC 181].

53.In response to this submission, it is contented by the learned Public Prosecutor that, Cr.No.2 of 2015 and Cr.No.5 of 2015 are in respect of two different transactions on complaints given by two different persons in respect of deposits made by them separately with Helios and therefore, the law laid down in T.T.Antony's case cannot be applied to the facts of this case, as it does not satisfy the test of sameness propounded by the Supreme Court in the said case. In T.T.Antony's case, the Hon'ble Supreme Court ventured to compare and critically examine the FIRs in Cr.Nos.353 and 354 of 1995 with the FIR in Cr.No.268 of 1997 and came to a conclusion that, both have been registered for the same occurrence and therefore, quashed the subsequent FIR. The Principle in T.T.Antony's case

should be examined in the light of penal provisions in Section 5 of the TNPID Act. Section 5 of the TNPID Act states that "where any financial establishment defaults the return of the deposit or defaults the payment of interest on the deposit" it will be liable for prosecution. From a reading of the above, even in case of a single depositor, if the Financial Establishment fails to return the deposit amount or fails to pay the interest on the deposit amount, an F.I.R can be launched and investigation taken up. If this Court is to accept the plea of the State that the complainants, deposit receipts and amounts differ and therefore, there is no sameness in the complaints of new depositors, then it would lead to a very disastrous situation, whereby thousands of FIRs will stand registered and each time when the arrested accused is released on bail in one FIR, he can be re-arrested and kept in jail for the whole of his life time as a remanded prisoner. A common sense approach should be adopted and a pragmatic interpretation of the law should be made. A similar situation arose before this Court in V.Ettiappan and others Versus Superintendent of Police, Chengalput and another [2002 MLJ Cr1 162], wherein 600 people were cheated by a person and this Court directed that, there can be one FIR and the complaints of other persons should be treated as statement under Section 161(3) Cr.P.C. I am inclined to adopt this procedure in this case and it is not open to the police to keep registering fresh FIRs by obtaining complaint from each depositor and arrest the accused, for that would be a patent abuse of police power. Of course, the trial Court can frame distinct charge vis-a-vis each depositor. The Deputy Superintendent of Police in his signed written submission has contended as follows:

The complaint in Crime No.5 of 2015 was received on 01.04.2015. During enquiry in Crime No.2 of 2015, it came to the knowledge of the Investigating Agency that the amount involved in Crime No.2 of 2015 being a sum of Rs.2,19,020, a relatively smaller sum when compared to the present Crime No.5 of 2015, was settled to the de-facto complainant therein. The course, when amounts involved are settled subsequent to initiation of prosecution, is the area reserved by the TNPID Act for action by the competent authority in consultation with the special Court. Since, Crime No.2 of 2015 was not taken charge of by the

competent authority as on that date and the status of the said crime no. was uncertain and since the deposits and dates of default in the two FIRs were separated by time, on receipt of complaints regarding defaults running to several crores of rupees involving more than 6500 depositors, the investigation agency has registered a separate FIR in Crime No.5 of 2015 on 01.04.2015. Hence, it is submitted that the registration of First Information Report in Crime No.5 of 2015 is justified and valid in law."

It is clear from the above Judgment, that this Court has also felt that the Police cannot keep registering fresh FIR by obtaining complaint from each depositor.

8.This Court also felt that one FIR can be registered and the complaint given by other persons can be treated as a statement under Section 161(3) Cr.P.C. By adopting this method, the same Police will be able to focus on the investigation and prevent new FIR's being registered before various police stations on each complaint given by the depositors. This Court is in complete agreement with the Judgment referred by the learned counsel for the petitioner.

9.In the result the FIR's in Crime No.1 of 2018 filed by the Inspector of Police EOW-II, Erode; Crime No.1 of 2018 filed by the Inspector of Police EOW-II, Villupuram; Crime No.3 of 2018 filed by the Inspector of Police EOW-II, Vellore; Crime No.2 of 2018 filed by the Inspector of Police EOW-II, Kancheepuram and Crime No.3 of 2018 filed by the Inspector of Police EOW-II, Cuddalore, is directed to be transferred to the file of the Inspector of Police, EOW-II, Chennai. The concerned Inspector of Police in each of the case shall transfer the case dairy to the file of the Inspector of Police, EOW-II, Chennai, within a period of four weeks from the date of receipt of a copy of this order.

10.Immediately on receipt of the case files from the other Police stations, the Inspector of Police, EOW-II, Chennai is directed to conduct a consolidate investigation in all the cases. It is also made clear that all fresh complaints can go only before the Inspector of Police, EOW-II, Chennai and statement of the complainant can be taken under Section 161(3) Cr.P.C., in the pending FIR's. The Inspector of Police, EOW-II, Chennai is directed to effectively continue with the investigation and proceed in accordance with law. The final report in this case shall be filed by the Inspector of Police, EOW-II, Chennai before the Special Court in Chennai.

11.With the above said directions, this Criminal Original Petitions are disposed of, and consequently, the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vv2/ssr

To

1.The Inspector of Police,
Economic Offence Wing,
Vellore District.

2.The Inspector of Police,
Economic Offence Wing,
Kancheepuram District.

3.The Inspector of Police,
Economic Offence Wing,
Cuddalore District.

4.The Inspector of Police,
Economic Offence Wing,
Villupuram District.

5.The Inspector of Police,
Economic Offence Wing,
Erode District.

6.The Inspector of Police,
Economic Offence Wing,
Chennai District.

7.The Public Prosecutor,
High Court, Madras.

+2 cc's to Mr.A.Selvendran, Advocate Sr.No.80526 & 80528

+1 cc to Mr.T.R.Prakasam, Advocate Sr.No.80189

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CSL/10.12.2018