

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
Crl.O.P.No.28077 of 2018
and Crl.M.P.Nos.16319 &16322 of 2018

T.Saminathan ...Petitioner/Accused
Vs.

State by

1.The Deputy Superintendent of Police,
Economic Offence Wing-II,
Coimbatore, Coimbatore District. ...R1/Complainant

2.Durai Nachimuthu ...R2/Defacto /Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the entire records concerned in C.C.No.3 of 2018 on the file of the Special Judge, TNPID Court, Coimbatore, Coimbatore District and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.C.Prakasam

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.3 of 2018, pending on the file of the learned Special Judge, TNPID Court, Coimbatore.

2.The petitioner before the Court has been added as A8 in the final report. The final report has been filed against 9 accused persons for an offence under Sections 120 B, 406 and 420 of IPC r/w. Under section 5 of Tamil Nadu protection of Interest of Depositors(In Financial Establishment) Act, 1997.

3.The learned counsel for the petitioner would submit that this petitioner had resigned from the partnership firm in the year 2008 itself and the same is evident from the dissolution of partnership dated 31.01.2008. The learned counsel for the petitioner further submitted that subsequently a new partnership firm under the same name was started by A6 and A7. The learned counsel for the petitioner would further submit that in this case admittedly the deposits have been collected for the period from 09.06.2003 to 15.06.2015 to the tune of Rs.2,36,97,000/- from 24 depositors. The learned counsel for the petitioner also submitted that all the 161 statement taken from the witnesses/depositors are stereo type and therefore, the same cannot be relied upon.

4.This Court has carefully considered the submission made by the learned counsel for the petitioner. The issues that have been raised by the learned counsel for the petitioner are factual in nature. The submission that the petitioner has already resigned from the partnership firm in the year 2008, by virtue of the dissolution of partnership deed dated 31.01.2008, is also a matter to be placed as a defence evidence before the Court below. This Court cannot go into the factual issues raised by the learned counsel for the petitioner at this stage. Therefore, this Court is not inclined to interfere with the proceedings pending before the Court below.

5.The learned counsel for the petitioner would submit that the presence of the petitioner may be dispensed with before the Court below.

6.Taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with before the Court below and he shall be represented by a counsel. The petitioner shall be present before the Court below at the time of framing of charges, at the time of questioning under 313 Cr.P.C and at that time of passing of the judgment. The learned counsel representing the petitioner shall cross examine the witnesses on the same day they are examined in chief and the petitioner shall not dispute the identity of the witnesses.

7.In the result, this Criminal Original Petition is disposed of with the above directions.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

rpl

To

1.The Special Judge, TNPID Court,
Coimbatore, Coimbatore District

2.The Deputy Superintendent of Police,
Economic Offence Wing-II,
Coimbatore, Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Prakasam, Advocate SR.No. 83048

CrI.O.P.No.28077 of 2018
and CrI.M.P.Nos.16319 &16322 of 2018

ASK(13/12/2018)