



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.379 of 2018
and
C.M.P(MD)No.2344 of 2018

P.Ramanathan

... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary,
Department for Home (Court - II),
Fort St. George,
Chennai - 600 009.
2. The State of Tamil Nadu,
Rep. By its District Revenue Office/
Competent Authority,
Fort St. George,
Chennai - 600 009.
3. The Additional Director General of Police,
(Economic Offences Wing),
Anna Nagar, Chennai.
4. The Deputy Superintendent of Police,
Economic Offence Wing II,
Madurai.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order, dated 28.07.2017 made in W.P(MD)No.14076 of 2017, on the file of this Court.

Prayer in WP(MD)No.14076/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned G.O.Ms. No. 1697 Home (Courts, IIA) Department dated 24.12.1999 and quash the same as illegal and contrary to provisions of Tamilnadu Protection of Interest of Depositors (In Financial Establishments) Act 1997 and Rules 1997.



For Appellant
For Respondents

: Mr.K.P.S.Palanivel Rajan
: Mr.A.K.Baskara Pandian,
Special Government Pleader.

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JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

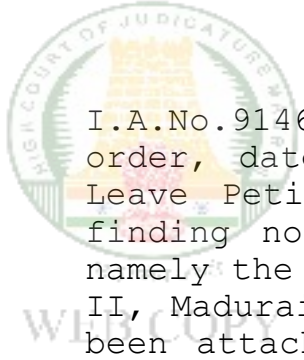
The appellant/writ petitioner is arrayed as Accused No.3 in C.C.No.25 of 2013, on the file of the Court of the Special Judge under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments), Act, 1997 (hereinafter referred to as the 'TNPID Act') of Madurai.

2.The fourth respondent herein filed a charge-sheet in Crime No.1 of 2010 charging the appellant/writ petitioner along with three others for the alleged commission of the offences under Sections 406 and 420 I.P.C read with Section 120(B) I.P.C and also under Section 5 of the 'TNPID Act'.

3.A perusal of the charge-sheet would disclose that Accused Nos.2 to 4 were running a financial institution namely 'Zara Solutions' at Door No.107/20, Madura Complex, Ellis Nagar, Bye-Pass Road, Madurai and its sister concerns are namely Zara Restaurant, Zara Bazaar and Zara T.V. One of the complainant came across an advertisement/announcement by the said persons that for the deposit of Rs.25,000/-, a monthly return of Rs.7,500/- will be assured for the first six months and the initial deposit of Rs.25,000/- also will be returned after six months. Believing the same, deposits have been made and since there was a default, number of complaints came to be lodged and the respondent, during the course of investigation, has found that under the banner of Zara Groups, the accused with attractive offers, publicised in a glittering way and thereby collected deposits to the tune of Rs.5,88,66,500/- from 629 depositors and out of the said amount, a sum of Rs.1,79,08,600/- was returned to the depositors and there was a default to the tune of Rs.4,09,57,900/-.

4.The appellant/writ petitioner herein filed CrI.O.P(MD) No.10663 of 2014 praying for quashing of the proceedings sofar as he is concerned in C.C.No.25 of 2013, pending on the file of the Court of the Special Judge, 'TNPID Act', Madurai. The said criminal original petition came to be dismissed on 28.11.2016 and however, personal appearance of the appellant/writ petitioner/Accused No.3 was dispensed with, with a direction that when the trial Court insists his appearance, he shall appear.

5.The appellant/petitioner herein made a challenge to the said order by filing a Special Leave Petition bearing Diary No.27087 of 2017 along with the petition for condonation of delay in



I.A.No.91464 of 2017. The Honourable Supreme Court of India, vide order, dated 04.10.2017, condoned the delay in filing the Special Leave Petition and however, dismissed the Special Leave Petition finding no reasons to interfere and also directed the respondent namely the Deputy Superintendent of Police, Economic Offences Wing - II, Madurai, to take immediate steps to sell the property which has been attached, in accordance with law and also granted liberty to the parties to putforth their contentions to be taken at the time of trial.

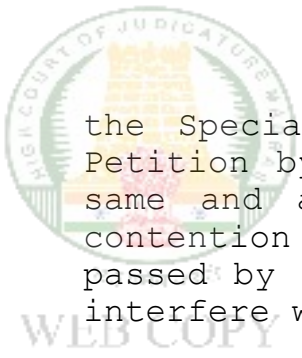
6.The petitioner came forward to file W.P(MD)No.14076 of 2017 challenging the legality of the first respondent's G.O.Ms.No.1697, Home (Courts IIA) Department, dated 24.12.1999 by contending among other things that the said G.O is in direct conflict with the provisions of the 'TNPID Act'.

7.The Writ Petition came to be dismissed on 28.07.2017 with a cost of Rs.5,000/- and challenging the same, the writ petitioner is constrained to approach this Court by filing this Writ Appeal.

8.Mr.K.P.S.Palanivel Rajan, learned counsel appearing for the appellant/writ petitioner has invited the attention of this Court to G.O.Ms.No.1697 Home (Courts IIA) Department, dated 24.12.1999 of the first respondent as well as the provisions of the 'TNPID Act' and would submit that only in the interest of Administrative reasons, Government Order is passed and the learned Single Judge, without entering into the merits of the case, has dismissed the Writ Petition mainly on the ground of delay and latches and since the appellant/writ petitioner is having an arguable point and also got a great chance to succeed in the Writ Appeal, the Writ Appeal has to be entertained and prays for interference.

9.Per contra, Mr.A.K.Baskara Pandian, learned Special Government Pleader, appearing for the respondents would submit that the very same point has been urged by the appellant/writ petitioner in Crl.O.P(MD)No.10663 of 2014, which came to be dismissed on 28.11.2016 and the challenge made to the said order by filing a Special Leave Petition and an order passed by the Honourable Supreme Court of India was also ended in dismissal and therefore, the appellant/writ petitioner along with other accused have to necessarily face the trial and therefore, prays for dismissal of this Writ Appeal.

10.One of the grounds urged in Crl.O.P(MD)No.10663 of 2014 is that the respondent Police has no power to investigate the case under the provisions of TNPID Act and it has to be done by the Revenue Divisional Officer as per Section 2(1) of the 'TNPID Act'. The said original petition came to be dismissed on 28.11.2016 and the appellant/writ petitioner made a challenge by way of Special Leave Petition before the Honourable Supreme Court of India with a petition in I.A.No.91464 of 2017 for condonation of delay. The Honourable Supreme Court of India has condoned the delay in filing



the Special Leave Petition. However, dismissed the Special Leave Petition by finding that there is no reason to interfere with the same and also granted liberty to the parties to putforth their contention at the time of trial. In the light of the said order passed by the Honourable Supreme Court of India, this Court cannot interfere with the order passed by the learned Single Judge.

11. In the light of the liberty granted to the parties, it is open to the appellant/writ petitioner/Accused No.3 in C.C.No.25 of 2013, on the file of the Court of the Special Judge for 'TNPID Act', Madurai, to putforth his defence that may be available to him, at the time of trial.

12. In the considered opinion of this Court, this is not a fit case in which the point urged by the learned counsel appearing for the petitioner is to be considered and even otherwise, this Court, is not competent to interpret the order passed by the Honourable Supreme Court of India in dismissing the Special Leave Petition.

13. In the considered opinion of this Court, there is no merit in this Writ Appeal and accordingly, this Writ Appeal is dismissed. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Department for Home (Court - II),
Fort St. George,
Chennai - 600 009.
2. The District Revenue Office/
Competent Authority,
Rep. By the State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
3. The Additional Director General of Police,
(Economic Offences Wing),
Anna Nagar,
Chennai.



4. The Deputy Superintendent of Police,
Economic Offence Wing II,
Madurai.

+ 1 CC TO Mr.K.P.S.PALANIVEL RAJAN, ADVOCATE IN SR No. 55556
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 55542

PS

TE/SKN-RSK/SAR-1 : 28/03/2018 : 5P/7C

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C.M.P(MD)No.2344 of 2018
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