IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 20.03.2019

PRONOUNCING ORDERS ON :22.03.2019

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THE HON'BLE MR.JUSTICE **N.ANAND VENKATESH**

Crl.O.P.Nos.5160 & 5423 of 2019

Devi ...Petitioner / 1st Accused in Crl OP No.5160 of 2019
V. Rajadurai ...Petitioner / Accused No.2 in Crl OP No.5423 of 2019

-Vs-

The State Rep by the Inspector of Police,
Economic Offence Wing II,
Villupuram ... Respondent/Complainant in both Crl.OPs

Common Prayer: Criminal Original petitions have been filed under Section 438 of Cr.PC to enlarge the petitioners on bail in Crime No.1 of 2019 on the file of the Respondent, pending investigation on such terms and conditions.

For Petitioner : Mr.P.Thiagarajan in
in Crl.OP No.5160 of 2019
Mr.R.John Sathyan
in Crl OP No.5423 of 2019

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor
in both Crl.OPs

COMMON ORDER

The case of the prosecution is that one Pappa Rajendran floated a company called M/s.Alwin Golden City Limited in the year 2009 and introduced different schemes, whereby, money was collected from various persons by promising to allot them housing plots. It is stated that nearly 200 persons made the investment. The petitioners herein (wife and brother of the said Pappa Rajendran) were also actively involved in the running of the company and were Directors in the said Company. The accused persons are said to have gone back on the promise and neither housing plots were allotted nor the money was refunded to the depositors.

2. The learned counsel appearing on behalf of the petitioner in Crl.OP No.5160 of 2019 submitted that this petitioner did not take any part in the affairs of the company, till her husband was alive and the entire affairs was managed by Pappa Rajendran and his brother. All of a sudden, he died on 01.12.2015 and the brother of Pappa Rajendran committed misappropriation in the Company by forming a separate company and diverting even his customers. Therefore, there was a dispute between this petitioner and the brother of the late Pappa Rajendran and he instigated several persons to give complaints against this petitioner and this

petitioner also attended the enquiry conducted by the respondent police and gave her explanation. Subsequently, the petitioner took charge of the Company. The learned counsel further submitted that a petition has been filed before the Company Law Tribunal seeking for various relief and any one who has claims against the Company can always file their claim before the Company Law Tribunal. The learned counsel further submitted that this petitioner intends to settle the properties to the persons from whom the money has been collected.

3. The learned counsel appearing on behalf of the petitioner in Crl.OP No.5423 of 2019 submitted that this petitioner has moved out of the Company immediately after the demise of Pappa Rajendran and the wife of Pappa Rajendran has taken charge as Chairman and Managing Director in the year 2015 itself. The learned counsel therefore submitted that this petitioner is not involved in the affairs of the Company from the year 2015 onwards and therefore, he should not be made liable for the dues payable to the customers.

4. The learned Additional Public Prosecutor submitted that

the accused persons have collected amounts to the tune of Rs.1,07,08,185/- and there are 139 complaints received from 140 victims and there are subsequent complaints which have also been received by the respondent police. Therefore, the learned counsel submitted that the inter se dispute between the petitioners cannot be taken into consideration and no steps have been taken for refunding the money. The learned counsel further submitted that these petitioners have also canvassed for receiving the deposits and promising high returns and thereby, induced several depositors to join in the scheme. The learned Additional Public Prosecutor also filed a detailed status report before this Court and vehemently opposed the Anticipatory Bail petitions filed by the petitioners.

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

6. It is the case of the prosecution that totally 140 victims have been identified and they have been cheated to the tune of Rs.1,07,08,185/-. Without finding a solution to repay back the amount, the petitioners have resorted to blaming each other for the failure of the Company. This is a case where public interest is involved and admittedly,

the monies have been received from various depositors. The mere filing of a company petition before the Company Law Tribunal is not an excuse for non repayment of money to the depositors. This Court is not happy with the attitude of the petitioners, who instead of resolving the issue, are blaming each other for the present situation.

7. Taking into consideration, the facts and circumstances of the case, this Court is not inclined to grant Anticipatory Bail to the petitioners. Accordingly, this Criminal Original Petitions are dismissed.

22.03.2019

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Index : Yes /No
Internet : Yes /No

1. The State Rep by the Inspector of Police,
   Economic Offence Wing II,
   Villupuram

2. The Public Prosecutor,
   High Court of Madras

N.ANAND VENKATESH.,J

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