

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.383 of 2019

and

CrI.M.P.No.5627 of 2019

J.Thambu Rajan Sagayam ... Petitioner/Accused No14

Vs

State by
Deputy Superintendent of Police,
Economic Offence Wing II,
Anna Nagar, Chennai- 600 040. Respondent

PRAYER: Criminal Revision case filed under Section 397 and 401 of the Criminal Procedure Code, to set aside the dismissal order passed in CrI.M.P.No.2775 of 2014 in C.C.No.1 of 2014 on the file of Special Judge under TNPID Act, at Chennai and discharge the petitioner/accused No.14.

For Petitioner : Mr.B.Rajkumar Ashok Singh

For Respondent : Mr.R.Surya Prakash
Government Advocate (Criminal Side)

O R D E R

The respondent Police registered a case against the revision petitioner and others for the offence under Section 5 of TNPID Act 1997 and 420 of IPC. The respondent police after the investigation laid a charge sheet before the Special Court in C.C.No.1 of 2014. During the pendency of the case, the petitioner/accused No.14 filed a petition under Section 239 of Cr.P.C., in CrI.M.P.No.2775 of 2014. The learned Special Judge, Chennai, after giving the opportunities to both the parties found that all the accused including the present petitioner received public deposits by giving false promise and after that not repaid the amount as promised to the depositors. The learned Special Judge, considering the fact that all the accused including this present petitioner conspired and invited the public deposits and failed to repay the amount as promised. Hence, the learned Special Judge, dismissed the petition. As against the order of dismissal the petitioner filed the present Criminal Revision Case before this Court.

2 The learned counsel for the petitioner would submit that the present revision petitioner resigned his job even prior to filing of the complaint by the defacto complainant. The learned counsel further submitted that the proceedings as against the two other accused in this case has been quashed by this Court as per order in Crl.O.P.No.24767 of 2014, on 05.10.2015 on the ground that the said two accused have resigned their job as early as 18.01.2008, i.e., well before the date of occurrence. Based on the above said order, the present revision petitioner has come up with this revision case and prayed that the same benefit may also be extended to him, as he has also resigned well before the registration of the case. Moreover, it is submitted that on the date of filing the complaint, he was not a director of the company. Therefore, under these circumstances, the learned Special Judge, failed to consider the aspect, which warrants interference.

3 The learned Government Advocate (Criminal Side) would submit that this petitioner is also involved in this case even prior to resign the job he also conspired with the other accused and invited the public investment from various persons, by giving false promise and failed to repay the same. It is pertinent to note that the date of complaint filed by the defacto complainant is 25.01.2010. Further, it is to be noted that during the investigation, it reveals that several depositors deposited from the year of 2003 onwards and when they demanded their deposits, the accused failed to repay the same. Therefore, it is clear that all the accused including this present petitioner conspired and invited the deposits from the public by giving false promise and failed to repay the same. Therefore, the learned Special Judge, considered all these aspects and dismissed the petition.

4 Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

5 Though the learned counsel would relied upon the earlier order passed by this Court on 05.10.2015, quashing the proceedings against two other accused involved in this case, but, this Court is of the view that the above said order is not at all applicable to the present revision case. It is well settled proposition of law that the Court while deciding the petition filed under Section 239 for discharge, the documents adduced by the prosecution under Section 173 of Cr.P.C., has to be looked into and not the defence taken by the accused and the documents filed by the accused. On a perusal of the records placed before this Court and order passed by the learned Special Judge, it is crystal clear that there is a prima facie case made

out against the present petitioner. The probative value of the material need not be gone at this stage. Therefore, under such circumstances, this Court does not find any perversity in the order passed by the learned Special Judge, and there is no merits in the present revision. In views of the above discussion, the present Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

sbn

To

1. The learned Special Judge,
Under TNPID Act, Chennai.
2. Deputy Superintendent of Police,
Economic Offence Wing II,
Anna Nagar, Chennai- 600 040.
3. The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.383 of 2019
and
Cr1.M.P.No.5627 of 2019

RV (CO)
GMY (28/06/2019)

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