

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2019

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.875 of 2019  
and Crl.M.P.No.12804 of 2019

Gnanaprakasam

.. Petitioner

Vs

State rep. by  
Inspector of Police,  
E.O.W-II, Kanchipuram.

.. Respondent

Criminal revision preferred under Section 397 r/w Section 401 Cr.P.C. to set aside the order dated 08.04.2019 passed by the learned Special Judge under TNPID Act cases, Chennai in Crl.M.P.No.1301 of 2018 in C.C.No.4 of 2017.

For Petitioner : Mr.M.Anandraj  
For Respondent : Mrs.P.Kritika Kamal,  
Govt. Advocate (Crl. Side)

O R D E R

This Criminal Revision has been preferred to set aside the order dated 08.04.2019 passed by the learned Special Judge under TNPID Act cases, Chennai in Crl.M.P.No.1301 of 2018 in C.C.No.4 of 2017.

2. On the complaint lodged by one Kumaravel, the E.O.W, Kanchipuram registered a case in Crime No.3 of 2015 on 15.07.2015 for the offences under Sections 420, 406, 294(b) and 506(I) IPC r/w Section 5 of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997 (for brevity "TNPID Act") against Gnanaprakasam (A1) and Build Rich Investment Group Limited, Hong Kong. After completing the investigation, the police have filed a charge sheet in C.C.No.4 of 2017 before the Special Court for TNPID Act cases, Chennai against Build Rich Investment Group Limited, Honk Kong (A1) and Gnanaprakasam (A2) for the offences under Section 420, 406 and 506(I) IPC and Section 5 of the TNPID Act. On receipt of summons, Gnanaprakasam appeared before the trial Court. However, the trial Court refused to furnish him the copies under Section 207 Cr.P.C. and insisted that he should represent Build Rich Investment Group Limited, Honk Kong (A1). According to Gnanaprakasam, he was only a Public Relations Officer in A1

company and that, the real name of the A1 company is Build Rich Global India Pvt. Ltd. and the Director of the company is a Korean national by name Toh Kiat Seng. Therefore, Gnanaprakasam (A2) applied for a certified copy of the final report and other documents and thereafter, filed a petition in CrI.M.P.No.1301 of 2018 under Section 173(8) Cr.P.C. for further investigation, which has been dismissed by the trial Court on 08.04.2019, challenging which, Gnanaprakasam (A2) is before this Court under Section 397 r/w 401 Cr.P.C.

3. Heard Mr.M.Anandaraj, learned counsel for Gnanaprakasam (A2) and Mrs.P.Kritika Kamal, learned Government Advocate (CrI. Side) appearing for the respondent State.

4. Today, Mr.B.Kamaraj, Inspector of Police, E.O.W-II, Kanchipuram is present before this Court. It is trite that further investigation under Section 173(8) Cr.P.C. cannot be sought by the accused as held by the Supreme Court in Amrutbhai Shambhubhai Patel Vs Sumanbhai Kantibhai Patel and Others (2017) 4 SCC 177. Therefore, on this short point itself, this revision petition would have been dismissed by this Court. However, Mr.Anandaraj took pains to draw the attention of this Court to the shoddy manner in which, the investigation has been conducted by the police inasmuch the person who had floated Build Rich Global India Pvt. Ltd. has been let off. He also submitted that even if the allegations in the final report are accepted in toto, an offence under Section 5 of the TNPID Act will not stand attracted at all.

5. This Court perused the complaint, which formed the basis of the registration of the F.I.R. in this case. The complainant, in his complaint dated 15.07.2015, has stated that, he got acquainted with Gnanaprakasam (A2) through a common friend; Gnanaprakasam (A2) told him that he is working as a Public Relations Officer in Build Rich Investment Group Limited of Malaysia, which has branches in Honk Kong, Singapore, Thailand and other places and that, they are into mining business; if he (complainant) makes investment in that company, he will get twice the amount as rich dividends every month and the dividends would be given as company share and gold; he (complainant) went into the website of the said company and invested Rs.3 Lakhs on 06.05.2013; his aunt Sumathi invested Rs.3 Lakhs on 11.05.2013, his uncle Mohan invested Rs.3 Lakhs on 07.07.2013, his friend Karthik invested Rs.60,000/- on 12.05.2013; since he did not receive the promised dividends, he contacted Gnanaprakasam (A2), who was evasive; after few days, when he went to Gnanaprakasam's house, he found that the latter had vacated the house; like him, one Rameshbabu, Velayudham, Murugan and Panneerselvam have also invested in the company.

6. The final report shows that there are only 8 victims in the case and the total amount is only Rs.36 Lakhs. The names of all the 8 victims are mentioned in the complaint given by Kumaravel. Thus, one family and their friends have invested in the said company for getting shares. This Court does not find any prima facie material to show that an offence under Section TNPID Act has been committed as alleged by the prosecution. On the allegations made by the victims, Gnanaprakasam (A2) can at the most be prosecuted for cheating and not for the offence under Section 5 of the TNPID Act.

7. That apart, even according to the prosecution, Gnanaprakasam (A2) was working as a Public Relations Officer in Build Rich Investment Group Limited, Honk Kong (A1). No proper investigation has been conducted by the police to find out the constitution of Build Rich Investment Group Limited, Honk Kong. Whereas, sufficient materials are there on record to show that the name of the company is Build Rich Global India Pvt. Ltd. and that company is incorporated in India and is registered with the Registrar of Companies. The Director of that company is Toh Kiat Seng. Thus, for a non existent Build Rich Investment Group Limited, Honk Kong, Gnanaprakasam (A2) cannot be forced to represent it. There seems to be something terribly wrong in the investigation of this case by the police. Therefore, this Court in the exercise of its inherent powers under Section 482 Cr.P.C., directs the Superintendent of Police, EOW, Chennai to conduct a further investigation in this case and if it is found that no offence under Section 5 of the TNPID Act has been committed, the final report can be withdrawn from the Special Court for TNPID Act Cases, Chennai and the same can be filed before the appropriate jurisdictional Court, that too, only if there is material to show the commission of other IPC offences. Until then, there shall be an order of stay of further proceedings in C.C.No.4 of 2017 before the Special Court for TNPID Act Cases, Chennai. The Superintendent of Police shall complete the further investigation within six months from the date of receipt of a copy of this order and file the supplementary report before the Special Court for TNPID Act Cases and thereafter, if necessary, seek for transmission of the records to the jurisdictional Court.

With the above direction, this petition is closed.  
Connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1.The Special Judge,  
Special Court for TNPID Act cases,  
Chennai.

2.The Superintendent of Police,  
E.O.W, Chennai.

3.The Inspector of Police,  
E.O.W-II, Kanchipuram.

4.The Public Prosecutor,  
High Court, Madras.

+1 CC to Mr.M.Anandaraj, Advocate sr 76054

CRL.R.C.No.875 of 2019

JP(CO)

SP(18/09/2019)