

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.Nos.25344 & 25353 of 2019
and Crl.M.P.Nos.13547, 13550, 13541 and 16543 of 2019

P.Narayanasamy ... Petitioner in both Crl.O.Ps

Vs.

1. State Represented by
Deputy Superintendent of Police,
Economic Offence Wing-II,
Chennai. ... Respondent in both Crl.O.Ps
2. Radhakrishnan
... Respondent in Crl.O.P.No.25344 of 2019
3. M.Velmurugan ... Respondent in Crl.O.P.No.25353 of 2019

COMMON PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records in the proceedings in C.C.Nos.7 and 8 of 2015 respectively, the file of the Special Judge, TNPID Court, at Chennai and quash the same insofar as the petitioner/A8 is concerned.

For Petitioner : Mr.R.Chandra Sudan
in both Crl.O.Ps

For Respondents : Mr.C.Iyyapparaj
in both Crl.O.Ps Additional Public Prosecutor
for R1

C O M M O N O R D E R

The petitioner has been arrayed as A6 and A7 respectively in the above said cases in C.C.Nos.7 and 8 of 2015 pending on the file of the learned Special Judge, TNPID Court, Chennai.

2.It is not in dispute that the petitioner herein had acted as an agent to the main accused Company and also that he had invested in the Company and also had become a victim. While that being so, his implication for an offence under Section 5 of

Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 (TNPID), may not be proper.

3. Section 5 of the TNPID Act provides that every person responsible for the management of the affairs of financial establishment shall be liable for the offences. Since it is not in dispute that the petitioner was not at all involved in the financial establishment in any capacity nor in the management of the affairs, but had a limited role of being an agent for procuring depositors, the offence under Section 5 of the TNPID Act may not be attracted. While that being so, it would not be proper to permit the petitioner to undergo the ordeal of criminal trial.

4. This Court in a decision of the case of Prasannadevi vs. State of Tamil Nadu reported in 2009 (3) MWN (Cr.) 32 has also held that the canvassing agents do not shoulder the responsibility for management or in the management of the affairs of the finance company and therefore are not liable to be prosecuted.

5. In the light of the above observations, this Court is of the view that the petitioner is entitled to succeed. Both criminal original petitions stand allowed and consequently, the proceedings in C.C.Nos.7 and 8 of 2015 on the file of the learned Special Judge, TNPID Court, Chennai insofar as the petitioner herein is concerned stands quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Special Judge, TNPID Court,
Chennai.
2. The Deputy Superintendent of Police,
Economic Offence Wing-II,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

+2cc to M/s.R.Chandrasudan, Advocate SR.97435 & 97436

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srg 09/01/2020