



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Saturday, the Twenty Seventh day of April Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL MP(MD) Nos.4241 & 4242 of 2019

IN

CRL OP(MD) No.8060 of 2018

T. AJAN BABU

... PETITIONER/ 3rd PARTY
IN CRL MP(MD). 4241/ 2019

1 BHASIKUMARAN NAIR

2 N.ASOKAN

... PETITIONER/ INTERVENER/
COMMITTEE MEMBERS
IN CRL MP(MD). 4242/ 2019

- Vs. -

1 LEKHA @ REKHA

... 1st RESPONDENT/ PETITIONER
IN CRL MP(MD). 4241/ 2019

... RESPONDENT/ PETITIONER
IN CRL MP(MD). 4242/ 2019

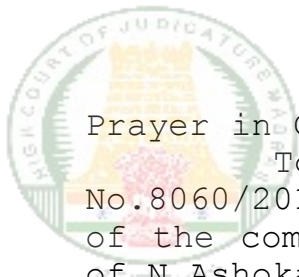
2 STATE REP. BY
THE INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING II,
NAGERCOIL.
(CRIME NO.1 OF 2017)

... 2nd RESPONDENT/ RESPONDENT/
COMPLAINANT IN CRL MP(MD). 4241/ 2019

2 STATE REP. BY
THE INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING,
(FINANCE INSTITUTION)
KANYAKUMARI DISTRICT,
AT NAGERCOIL.
(CRIME NO.1 OF 2017)

... RESPONDENT / RESPONDENT
IN CRL MP(MD). 4242/ 2019

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant leave to the petitioner to file modification petition to modify the earlier common order passed by this Honourable Court in CRL.O.P.NO.8060, 8997, 8998 and 6737 of 2018 dated 31/07/2018.



Prayer in CRL MP(MD). 4242/ 2019 :

To modify the order dated 31/07/2018 passed in Crl.O.P(MD). No.8060/2018 by including M.Gopalakrishnan, S/o.Madhavan as a member of the committee constituted by this Honourable Court in the place of N.Ashokan.

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Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of MR.K.P.NARAYANAKUMAR, Advocate for the petitioner in CRL MP(MD) No.4241 of 2019 and MR.S.C.HEROLD SINGH, Advocate for the petitioners in CRL MP(MD) No.4242 of 2019 and of MR.K.K.VIJAYAN, Advocate for R1 in CRL MP(MD) No.4241 of 2019 and MR.A.ROBINSON, Government Advocate (Crl. Side) for R2 in in CRL MP(MD) No.4241 of 2019 & R1 in CRL MP(MD) No.4242 of 2019, the court made the following order:-

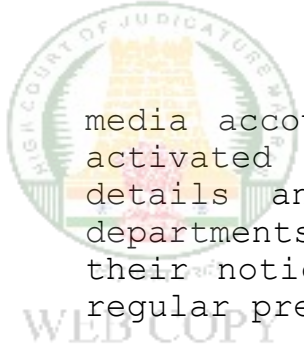
Heard the learned counsel on either side.

2.The subject matter pertains to the affairs of Nirmal Krishna Chits private Limited, Nirmal Krishna Nidhi Limited and Palugal Krishnan Chits private limited. These establishments had committed default. Therefore, Crime No.1 of 2017 came to be registered on the file of EOW-2, Nagercoil. Some of the accused moved this Court for anticipatory bail.

3.This Court by order dated 31.07.2018 in Crl.O.P.(MD)Nos.8060, 8997 and 8778 and 6737 of 2018 constituted a committee to assist the District Revenue Officer, Kanyakumari at Nagarcoil to identify the asserts and bring them to sale. Para 9,10,11 and 13 of the said order would read as under:

"9.This Court constitutes a Committee which will assist the competent authority/District Revenue Officer, Kanyakumari @ Nagercoil in carrying out his function set out under Section 7(4) of the Act. The Committee shall comprise Thiru.Bhasikumaran Nair, Ashokan, S.John Alexandar and Mrs.Agnes, the Inspector of Police, Economic Offence Wing-II, Kanyakumari District @ Nagercoil. This Court makes it clear that Mrs.Agnes, the Inspector of Police, EOW-II will not be transferred or disturbed for a period of one year from the date the Committee starts functioning. The Committee members except the Inspector of Police will be entitled to a remuneration of Rs.15,000/- each per month. This amount shall be paid to them on the first working day of every month.

10.The District Revenue Officer, Kanyakumari @ Nagercoil will bring all the assets set out in the five scheduled items to sale in appropriate stages. Priority will be given to the movable items. The A schedule vehicles will be sold within a period of one month from the date of issuance of this order copy. The Committee will ensure that the cost of publication remains as low as possible. The Committee shall open a Web-site. The details of the auction, sale price etc., will be available in the said website. Since there are about 7000 depositors, the Committee shall open social

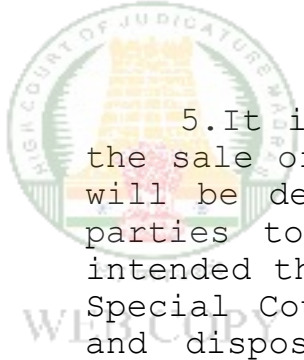


media accounts such as Whats App, Facebook page. They shall be activated and operated to give maximum publicity to the auction details and the activities of the Committee. The Government departments also shall prominently publish the auction notice in their notice boards. The Public Relation Officer shall also give regular press releases.

11. The Committee will fix the minimum sale price and place the written proposals before the competent authority. It is open to the authority to modify the proposals given by the Committee and thereafter it will be placed before the Special Court. After getting clearance from the Special Court, the Schedule items will be brought for sale. It is made clear that no auction notice will be notified or published without approval from the Special Court. The Special Court shall take a decision one way or the other, but within one week from the date when it is submitted. If the accused are of the view that the sale price has been fixed below the market value, it is open to the accused to bring or identify a buyer for purchasing the property in question at a higher value. If the bidders quote the same rate, the one who is a depositor will be given preference. If among the affected depositors the same rate is quoted, the one who had deposited more will be given preference. All the sale proceeds will be credited to the account of Crime No.01 of 2017 before the Special Court. As and when the sale proceeds reaches rupees 10 Crore, the learned Special Judge shall immediately commence disbursement on a pro-rata basis among all the depositors. The Committee shall collect all the bank account details of all the individual depositors so that the remittances can be made in online bank transfer mode.

13. Section 14 of the TNPID Act, 1997 has a overriding clause. If any order of attachment has been made, the Committee will have the power to take out appropriate applications for getting them raised. The frozen accounts can be de-frozen and it shall be credited into the account specially opened by the Special Court. The said account can be opened by the Committee for managing their day to day expenses. The competent authority as well as the Special Court shall bear in mind that extreme austerity measures are to be followed and that every paise will have to be accounted. The statement of accounts shall be submitted before the Special Court every month for the preceding four weeks. The Registration Department, Survey Department and other government departments are specifically directed by this Court to give their fullest co-operation to the Committee constituted by this Court as well as the competent authority for effective implementation of this scheme."

4. This Court however makes it clear that this order was not intended to fetter the powers of the Special Court. It was only to fast track the entire mechanism, so that the affected depositors can get some speedy relief. Therefore, this Court permits the petitioner herein to move the Special Court for passing appropriate orders.



5. It is made clear that any issue arising out of this order or the sale of the assets of the finance establishment or the accused, will be decided by the Special Court. There is no need for the parties to move this Court for clarification. Since this Court intended that the issue must be resolved in a time bound manner, the Special Court will take up the applications filed in that regard and dispose it of expeditiously. Since, the District Revenue Officer has been designated as the competent authority under the TNPID Act, he is expected to discharge his duties, keeping in mind the letter and spirit of the statute. He will have to abide by any direction that may be passed by the Special Court in order to effectuate the object behind the order dated 31.07.2018 made in the aforesaid Criminal Original Petitions.

6. Accordingly, this Criminal Miscellaneous Petitions are disposed of.

sd/-
27/04/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDGE, SPECIAL COURT,
TANPID ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE
ECONOMIC OFFENCES WING II,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING,
(FINANCE INSTITUTION)
KANYAKUMARI DISTRICT,
AT NAGERCOIL.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.K.P.NARAYANAKUMAR, Advocate SR.No. 7611

COPY TO:
THE DISTRICT REVENUE OFFICER,
KANYAKUMARI AT NAGARCOIL.

ORDER
IN
CRL MP (MD) Nos.4241 & 4242 of 2019
IN
CRL OP (MD) No.8060 of 2018
Date :27/04/2019