

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl.O.P.No.18269 of 2020

and

Crl. M.P. No.7142 of 2020

Malliga

W/o. Late Ganesh

...PetitionerAccused-4

.Vs.

State Rep by Deputy Superintendent of Police

Economic Offence Wing II Unit

Salem District

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside the order made in Cr.M.P. No. 825 of 2020 dated 14.10.2020 in CC No.11 of 2014 on the file of the Special Judge, Special Court under Tamil Nadu Protection of Interest, Depositors Act, Coimbatore, and pass such other suitable orders which may deem fit and proper of this case.

For Petitioner : Mr.G.Murugendran

For Respondent : Ms.M.Prabhavathi

Additional Public Prosecutor

O R D E R

Assailing the order dated 14.10.2020, passed in Cr.M.P. No.825 of 2020 in CC No. 11 of 2014 dated 14.10.2020 on the file of the Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositors Act, Coimbatore, this Criminal Original Petition has been preferred by the petitioner/A4.

2. The Petitions have been filed by the petitioner/A4 in Crl. M.P. Nos.823 & 825 of 2020 for reopening the case and recalling the prosecution witnesses P.Ws.1 to 75 for the purpose of cross examination. The only reason given by the petitioner for the same is that, due to the illness of her counsel, she was unable to get instructions to cross examine the witnesses and inasmuch as A3 was looking after the case, who had died

subsequently on 16.08.2020, only thereafter, the petitioner came to know that P.Ws. 1 to 75 were not cross examined and hence the need for the abovesaid petitions.

3. The respondent resisted the abovesaid petitions contending that after the closure of the evidence adduced in the main case, when the matter stood adjourned for judgment, the present petitions have been laid and the petitioner and the other accused have not returned any amount to the depositors and the accused involved in the matter has cheated a sum of Rs.1,15,04,000/- in respect of the 75 depositors and A3 to A6 belong to the same family and therefore, contended that the only aim of the petitioner is to delay the proceedings and hence the petition is liable to be dismissed.

4. On an appreciation of the rival contentions put forth by the parties, the court below was pleased to dismiss the petitions preferred by the petitioner. Aggrieved over the same, the present Criminal Original Petition has been laid by the petitioner/A4.

5. From the materials placed on record, it is noted that the prosecution evidence was commenced on 21.07.2015 and closed on 30.11.2017 with P.W.84, thereafter, the accused involved in the matter were questioned under 313(1)(b) of Cr.P.C. on 03.10.2018 and the matter stood adjourned for defence evidence from 17.10.2018 onwards till 14.05.2019. However, no defence evidence has been adduced. Consequently, the evidence was closed and posted for arguments from 17.06.2019 onwards. Meanwhile, A5, Magesh, son of the present petitioner preferred a petition on 08.07.2019 in Cr. M.P. No.1765 of 2019, which was allowed on condition. However, since the condition has not been complied with, the same was dismissed on 27.11.2019 and the said order has become final. Thereafter, the present petition had come to be laid by the petitioner.

6. As rightly found by the court below, all the accused had engaged the service of the same counsel for defending their case. In such view of the matter, when for the same purpose, the petition had been preferred by A5, who was also represented by the same counsel and the said petition had come to be dismissed for non compliance of the conditional order passed by the court below, it is evident that, as determined by the court below, the present petition preferred by the petitioner is nothing but a delay tactics to avoid the conclusion of the calendar case laid against them.

7. The reason given by the petitioner is totally unacceptable. According to the petitioner, due to illness of her counsel, PWs were unable to be examined and that she came to

know about the same only after the demise of A3. The same has been controverted by the respondent. In view of the above, when the reason adduced by the petitioner for not cross examining the witnesses in the matter, particularly, when they were represented by the same counsel and when the earlier attempt made by A5 for the same purpose had come to be dismissed and in such view of the matter, as rightly held by the court below, when the reasons adduced by the petitioner for recalling of P.Ws.1 to 75 is totally unacceptable and bereft of materials, the court below is found to be justified in dismissing the petitions. As rightly held by the court below, only with a view to cheat the 75 depositors, the petitions have been laid by the petitioner and the other accused for stalling the proceedings one way or the other endlessly. The court below has given cogent and convincing reasons for dismissing the petition preferred by the petitioner.

8. In the light of the abovesaid factors, I do not find any error or infirmity in the impugned order passed by the court below. Resultantly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. State Rep by Deputy Superintendent of Police
Economic Offence Wing II Unit
Salem District
2. The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.G.Murugendran, Advocate, S.R.No.37486

Cr1.O.P.No. 18269 Of 2020

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