BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2020
CORAM:
THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**
Crl.O.P.(MD)No.14191 of 2016
and
Crl.M.P.(MD)Nos.6632 & 6633 of 2016

S.Ghouse Sardhar Hussain ... Petitioner / Accused (A5)

Vs.

1.The State through,
The Deputy Superintendent of Police,
Economic Offences Wing-II,
Madurai.

2.S.Deivendran ... Respondents / Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the case in C.C.No.3 of 2016 on the file of the learned Special Judge for TNPID Act cases at Madurai and quash the charge sheet filed by the first respondent and consequential all further proceedings as against the petitioner.

For Petitioner	:	Mr.D.Shanmuga Raja Sethupathi
For R1	:	Mr.K.Suyambulinga Bharathi Government Pleader (Crl. Side) Additional Public Prosecutor.
For R2	:	Mr.S.T.Sasidharan Tamilkani

ORDER

Based on the complaint given by one S.Deivendran, case was registered by the Inspector of Police, City Crime Branch, Madurai for the alleged offence of cheating. Later case was transferred to Deputy Superintendent of Police, Economic Offences Wing-II, Madurai for further investigation as per the instruction of the Director General of Police. Thus the first respondent has taken up the investigation of the complaint.

2.The case of the prosecution is that Paramount Marketing Corporation is a private company, registered under Companies Act. The said company collected deposits nearly Rs.65 Crores, however, they have not repaid the money received as deposits. Hence, offence under Sections 406, 420 r/w 120(B) IPC and Section 5 of

Tamil Nadu Protection of Interests of Depositors Act 1997 got attracted and on the completion of investigation, final report has been filed before the Special Court for TNPID Act cases, Madurai in C.C.No.3 of 2016, against seven accused on which first accused is a Company, second accused is a partnership firm, third, fourth and fifth accused, who are husband, wife and son, are the directors of the first accused Company. The accused persons have filed one petition after another challenging the order of the Judicial Magistrate taken cognizance of the case in C.C.No.10 of 2013.

3.The Hon'ble Supreme Court vide order dated 30.07.2012, allowed the appeals preferred by the accused persons ordering fresh investigation. Accordingly, fresh investigation was conducted and final report submitted on 21.11.2012. Now challenging the process of taking cognizance by the Special Court, the fifth accused, who is one of the Director of the finance company has preferred this petition on the ground that arraying the petitioner as one of the accused, is a misconception of facts when the first accused is a company, registered under companies Act and third accused is its Managing Director. The second accused Paramount Marketing Corporation is a proprietary concern. The Investigating Officer without considering the factual position, has launched prosecution against this petitioner, who is not responsible for the management of the affairs of the financial establishment, to attract Section 5 of Tamil Nadu Protection of Interests of Depositors Act 1997. Therefore, no offence is made out against this petitioner either under IPC or under TNPID Act.

4.The State has filed its counter narrating the sequence of events and has placed on record that the investigation discloses that the petitioner is one of the Director of the first accused Company. The depositors have spoken about the active involvement of this petitioner, who being responsible for the management of the day to day affairs of the finance company and the proprietary firm. Therefore, the contention of the petitioner that the final report laid on mis-conception of the fact and no offence under Section TNPID Act attract are un-sustainable.

5.During the investigation it was clearly found that the accused persons have invented a scheme, which is so designed to cheat the public. As per the said dupe scheme, the petitioner used to collect deposit and give receipt for the same, under the guise of sale of Thirukural Book. This dupe scheme is well explained by the witnesses, which establishes the criminal intention of the petitioner to cheat the public. The deposit was collected while the petitioner was the Director of the Company. Hence, he liable for the act of the Company.

6.Perusal of the counter clearly indicates there are several increminating materials to prosecute the petitioner. Witnesses have spoken about his involvement in collecting deposits and records indicates that he is the Director of the first accused Company and being the son of the third accused, he is actively participated in the day to day affairs of the partnership firm also.

7.In view of the above, this Court finds that there is no merits in this petition. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Special Court for TNPID Act cases,
Madurai.

2.The Deputy Superintendent of Police,
Economic Offences Wing-II,
Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-10874[F] dated 10/03/2020)

+1 CC to M/s.S.T.SASITHARAN TAMILKANI, Advocate (SR-11084[F] dated 11/03/2020)

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