IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.No.725 of 2021
and
Crl.M.P.No.419 of 2021

Suresh Pendyala ... Petitioner

Vs.

1. The Inspector General of Police,
   Economic Offences Wing,
   Head Quarters,
   Chennai - 600 040.

2. The Inspector of Police,
   Economic Offences Wing,
   Head Quarters,
   Chennai - 600 040.
   (Crime Nos.15 to 17 of 2020) ...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondents to treat the subsequent FIRs in Crime Nos.16 and 17 of 2020 and other similar complaints received against the petitioner, founded on the same cause of action or allegations, as part of the investigation in the first FIR in Crime No.15 of 2020 on the file of the second respondent, by avoiding multiple FIRs relate to incidents which form part of the similar transaction in view of the bar under Sections 154 to 157, 162, 169, 170 and 173 Cr.P.C.

For Petitioner : Mr.N. Manokaran
For Respondents: Mr. M. Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This petition has been filed for a direction to the respondent/police to conduct the investigation in Crime No.15 of 2020 and to take all the subsequent complaints as statements under Section 161 Cr.P.C.

2. The petitioner has been shown as an accused in Crime No.15 of 2020, which was registered on the file of the second respondent for the offences under Section 406 and 420 IPC. The

case of the prosecution is that the company that was run by the petitioner collected money from the subscribers under various schemes and the same was not repaid. The grievance of the depositors is that the company has stopped the repayment of the deposits from February 2020.

3. The grievance of the petitioner is that multiple F.I.Rs are registered by the respondent-police at the instance of different complaints with identical allegations. Thus, according to the petitioner, it is in violation of the well settled principle of law that offences falling under the same business transaction conducted by the accused person should be investigated in a single F.I.R., and all the subsequent complaints must be taken as a statement under Section 161 Cr.P.C., by the investigating officer.

4. The respondent/police have filed a counter in this case. The relevant portions in the counter are extracted hereunder:-

> "2. It is submitted that the case of the prosecution is that on 06.10.2020 at about 12.00 hours, the defacto complainant namely Tr.Seetharaman S/o.Ranganathan, lodged a complaint before the respondent police by stating that the default company A-1 Apex Web Services and Online Education Pvt. Ltd No.766, Defence Colony, Sainikpuri, Hydrabad, Telangana and A-2 Suresh Pendiyala/petitioner herein and A-3 R.Shankar have defrauded the defacto complainant totally to tune of Rs.56,691 which was deposited by the defacto complainant with the default company who assured to return the amount 4 times more in 20 months by viewing the ADC App of the default company. So far, 13 petitions to the tune of Rs.40,08,203/- are received. Hence the case has been registered in EOW-II, Chennai Crime No.15/2020 U/s. 406, 420 IPC this case is under investigation.
>
> 3. It is also submitted that the case of the prosecution is that on 06.10.2020 at about 14.45 hours, the defacto complainant namely Tr.Mahadevan, lodged a complaint before respondent police by stating that the default company A-1 Apex Web Services and Onlice Education Pvt Ltd No.766, Defence Colony, Sainikpuri, Hydrabad, Telangana and A-2 Suresh Pendiyala/petitioner herein and A-3 Shabu Kumar, A-4 Jayakumar and A-5 Mohammed Rafiq have defrauded the defacto complainant totally to tune of Rs.2,04,400/- which was deposited by the defacto complainant with the default company who assured to return the amount 4 times more in 20

months by viewing the ADC App of the default company. So far, 13 petitions to the tune of Rs.52,54,473/- received. Hence the case has been registered in EOW-II, Chennai Crime No.16/2020 U/s. 406, 420 IPC this case is under investigation.

4. It is further submitted during course of investigation, on 06.10.2020 at about 16.30 hours, the defacto complainant namely Tr.Aswin Raj lodged a complaint before the respondent police by stating that the default company A-1 Apex Web Services and Online Education Pvt. Ltd., No.766, Defence Colony, Sainikpuri, Hydrabad, Telangana and A-2 Suresh Pendiyala/Petitioner herein and A-3 Vignesh have defrauded the defacto complainant totally to tune of Rs.3,04,000/- which was deposited by the defacto complainant with the default company who assured to return the amount 4 times more in 20 months by viewing the ADC App of the default company. So far, 30 petitions to the tune of Rs.1,66,71,755/-. Hence the case has been registered in EOW-II, Chennai Crime No.17/2020 U/s. 406, 420 IPC this case is under investigation.

6. I submitted that A-2/Petitioner is the Managing Director of the default company of the above A-1 company. As per the petitioner company's terms and conditions with regard to 6 schemes brought by it disclosed that investment of money in any of the 6 schemes will fetch 20% of the investment amount each month for a period of 20 months. However, contrary to the above said promise, the company failed to provide the money to the investors. The investment was made by the investors in the name of the company through the online banking transactions. But for the terms and conditions of the schemes floated by the petitioner's company, the investors would not have part with amount with the company. The investor's money was remitted in the name of the company for the scheme they have joined. Therefore the company not only cheated the investors but also misappropriated the amount remitted in the name of the company. The above facts reveals a prima facie case against the petitioner and others U/s 406 & 420 IPC.

8. It is submitted that the cases in Cr.No.15 to 17 of 2020 are not verbatim reproduction. But on the contrary the date of occurrence, place of occurrence and the name of the accused are different except the petitioner. The territorial jurisdiction of each FIR comes under different

Courts i.e., Cr.No.15/2020 under the territorial jurisdiction of the Chief Metropolitan Magistrate Court, Chennai, Cr.No.16/2020. Under the territorial jurisdiction of the Chief Judicial Magistrate Court, Chengalpet, Cr.No.17/2020 under the territorial jurisdiction of the Chief Judicial Magistrate Court, Thiruvallur."

5. This Court has repeatedly held that in cases of this nature which involves collection of money from depositors, all the subsequent complaints must only be received as a Section 161 statements in the same single FIR. Registering multiple FIRs will only cause confusion and this Court has given directions to avoid such a practice. However, in the present case, the respondent has already registered three FIRs in Crime Nos.15, 16 and 17 of 2020. The same is sought to be justified on the ground that it is given by different complainants and it will fall within the jurisdiction of different Courts.

6. The respondent police must be aware about the directions issued by this Court time and again and every time they should not expect this Court to issue directions in this regard. The respondent-police should consolidate the entire case in Crime No.15 of 2020 and all the subsequent complainants must be treated as a statement of the complainant under Section 161 Cr.P.C. The investigation can be continued in Crime No.15 of 2020.

7. This criminal original petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AT

To
1.The Inspector General of Police,
Economic Offences Wing,
Head Quarters, Chennai - 600 040.

2.The Inspector of Police,
Economic Offences Wing,
Head Quarters, Chennai - 600 040.

3. The Public Prosecutor,
   High Court, Madras.

+1 CC to Mr.N. Manokaran, advocate sr 5441.

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and

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AJB(CO)

SP(17/02/2021)