

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.7012 of 2021

and

Crl.M.P.No.4675 of 2021

Mayilsamy

... Petitioner/Accused No.2

Versus

State, Rep.by Inspector of Police

E.O.W.-II, Coimbatore,

Cr.No.3 of 2012.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the order dated 11.03.2021 made in Crl.M.P.No.665 of 2021 in C.C.No.18 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore and set aside the same.

For Petitioner : Mr.S.Senthilnathan

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This petition has been filed to call for the records relating to the order dated 11.03.2021 made in Crl.M.P.No.665 of 2021 in C.C.No.18 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore and set aside the same.

2. The petitioner/A2 in C.C.No.18 of 2013, who is facing trial before the trial Court for the offence under Sections 120(B), 406 and 420 of IPC and Section 5 of TNPID Act, 1997, has filed this quash petition.

3. The learned counsel for the petitioner has submitted that a case has been registered against the petitioner and others for cheating 304 depositors. However, the depositors in their evidence had admitted that they received money and gold coins from the accused till the previous month of FIR, but those facts were suppressed by the Police. Since he was not having sufficient money to deposit the witness batta to all the prosecution witnesses, he recalled only PW1 to PW50 and cross examined them. By way of cross examination he has to establish the said material facts. He is having valid a defence. Unless

this Court was pleased to recall PW51 to PW150, the petitioner would be put into irreparable loss and hardship. Further they also received monthly payment till FIR was filed, which has to be brought in only by way of cross examination. Since he was unable to mobilize the batta for all the witnesses, he had earlier recalled PW1 to PW50 and now he filed another recall petition for witnesses PW51 to PW150. The Tribunal without considering these aspects dismissed the recall petition and hence, the present petition is filed before this Court.

4. The learned Additional Public Prosecutor has submitted that admittedly, the prosecution was commenced on 17.06.2015 and the witnesses were examined during 2015 to 2017; and last witness was examined as PW299 on 19.09.2017. Now, 8 Mahazar witnesses, Building Owner and 3 Police Officers alone have to be examined on the side of the prosecution. On 07.09.2020, the petitioner filed an application to recall PW1 to PW50 alone, which was allowed on 27.11.2018. Consequently, the examination of the said prosecution witnesses have been stopped. The petitioner took time to cross examine those witnesses from 27.11.2018 to 04.02.2021. Without adding the remaining 250 witnesses, the petitioner filed a piecemeal application for only 50 witnesses and now filing petition for another 100 witnesses. This is the second application for recalling the witnesses and it is strongly opposed for the reason that no specific reason has been mentioned in this application. This application has been filed only to drag on the proceedings. Though PW1 to PW50 were recalled and allowed on 27.11.2018, but they had not taken any steps to cross examine the witnesses for the period of three years. The petitioner along with the other accused had cheated and misappropriated an amount of Rs.5,72,31,840/- from 304 depositors.

5. Considering the submissions, this Court finds that there is no valid reason and defence to interfere with the order of the Trial Court and hence, this Court is inclined to dismiss the Criminal Original Petition.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is also closed. Further, as the Calendar Case is of the year 2013, the trial Court is directed to complete the trial within a stipulated period.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dna

To

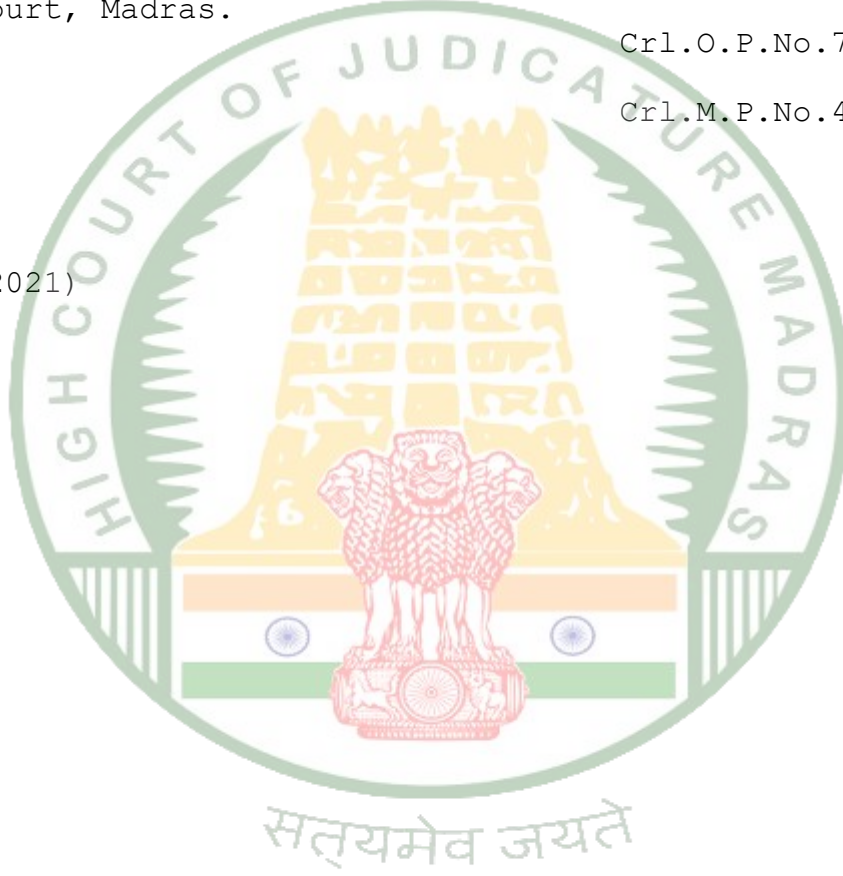
1.The Special Judge, Special Court under  
TNPID Act, Coimbatore.

2.The Inspector of Police  
E.O.W.-II, Coimbatore,  
Cr.No.3 of 2012.

3.The Public Prosecutor,  
High Court, Madras.

CrI.O.P.No.7012 of 2021  
and  
CrI.M.P.No.4675 of 2021

VBM(CO)  
GN(08/07/2021)



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