

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8197 of 2021
and
Crl.M.P.No.5404 of 2021

Sasi @ Govindasamy

... Petitioner

Versus

State represented by DSP,
EOW-II, Erode,
in Crime No.1014 of 2012
Erode South PS.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to pass an order to set aside the order dated 29.03.2021 in Crl.M.P.No.752 of 2021 in C.C.No.29 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.

For Petitioner : Mr.B.Mohan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 29.03.2021 in Crl.M.P.No.752 of 2021 in C.C.No.29 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore. The petitioner/A2, who is facing trial in C.C.No.29 of 2013 has filed this quash petition.

2. The learned counsel for the petitioner has submitted that a complaint has been registered against the petitioner for cheating depositors. The investigation has been conducted in piecemeal and 3 final reports were filed, viz., in the first final report, it is stated that 74 depositors were cheated, second final report, it is stated that 6 depositors were cheated and the third final report, it is stated that 27 depositors were cheated, in total 107 depositors were cheated.

3. The learned counsel for the petitioner has submitted that the petitioner and other accused had settled the due/default amount to the 79 depositors. The petitioner is now ready to settle the remaining 31 depositors, and as such, they have to be cross-examined. The Trial Court erred in dismissing the application under 311 Cr.P.C. without considering the factum of settlement made in this case and the same has to be brought on record to initiate the proceeding under Section 5A of TNPID Act as it is a compoundable offence.

4. The learned Additional Public Prosecutor has submitted that the case is of the year 2013 and chief examination of the witnesses namely, PW1 to PW88 were examined during 2014 to 2016. The accused were questioned under Sec.313 of Cr.P.C. and it is now posted for defence side evidence. At this juncture, to protract the case, the petitioner has filed this petition.

5. Considering the above submissions and on a perusal of the materials, it is seen that the petitioner has filed this petition to recall witnesses for cross examination. It is the case of the petitioner that he had settled 31 witnesses through Mediation Center, Coimbatore and settled 44 witnesses during cross-examination. The petitioner needs to bring on record the settlement arrived with remaining 31 witnesses in the witness box and cross examine them for the purpose of the settlement and also to initiate the proceeding under Section 5A of the TNPID Act. Otherwise the petitioner would be prejudiced.

6. In view of the above, this Court is inclined to allow this petition. The trial Court is directed to recall the witnesses as prayed in the 311 Cr.P.C. petition and the petitioner shall cross examine the witnesses without taking any adjournments.

7. With the above direction, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

dna
To

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

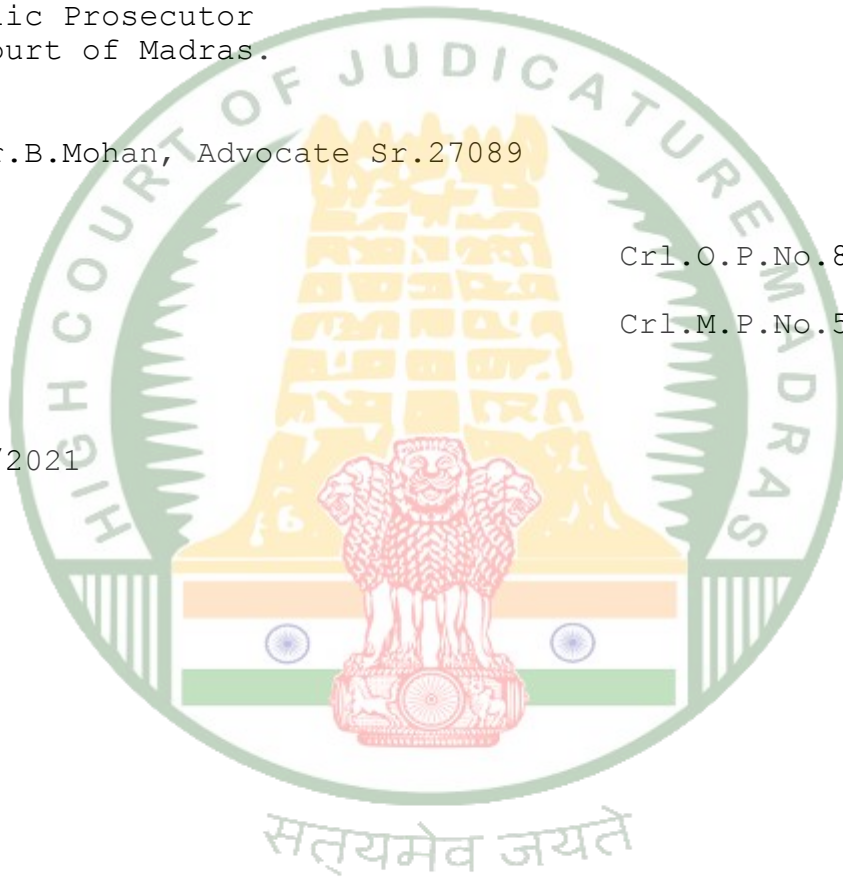
2.The DSP,
EOW-II, Erode,
in Crime No.1014 of 2012
Erode South PS.

3.The Public Prosecutor
High Court of Madras.

+lcc to Mr.B.Mohan, Advocate Sr.27089

Crl.O.P.No.8197 of 2021
and
Crl.M.P.No.5404 of 2021

smi[co]
srg 06/07/2021



WEB COPY