



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Wednesday, the Twenty Second day of December Two Thousand Twenty One

WEB COPY

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos.13654 and 13664 of 2021

in CRL.A.NO.391/2021

1 BOOPATHY
2 ABHI @ ABHINIYA

[PETITIONERS]

Vs

STATE REP BY
INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING-II,
ERODE (CRIME NO.1024/2012)

[RESPONDENT]

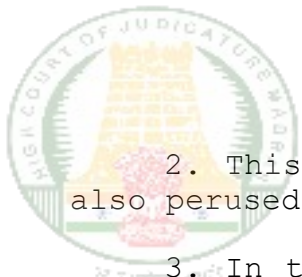
Petitions praying that in the circumstances stated therein the High Court will be pleased to

(i)grant an order of exemption to the petitioners are from surrendering before the learned trial court pursuant to the Judgment dated 26.07.2021 made in CC.No.28/2013 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore pending disposal of this Crl.A.No.391/2021(IN CRL.OP.NO.13654/2021)

(ii)Suspend the sentence imposed on the petitioner by the Judgment dated 26.07.2021 made in CC.No.28/2013, CNR.No.TNCB 06-000045-2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore pending disposal of the above Crl.A.No.391/2021 (IN CRL.OP.NO.13664/2021)

Order : These petitions coming on for orders upon perusing the petitions and upon hearing the arguments of M/S KAITHAMALAI KUMARAN FOR M/S P.KANNAN KUMAR Advocate for the petitioner and of MR.S.SUGENDRAN, Govt. Advocate (Crl. Side)on behalf of the Respondent the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the petitioners/A4 and A5 seeking suspension of sentence of imprisonment imposed by the order dated 26.07.2021 in C.C.No.28 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore and exemption of the petitioners from surrendering pending above appeal.



2. This Court heard the learned counsel for the petitioners and also perused the materials placed on record.

3. In the impugned order, the trial court had found the accused guilty and sentenced them as under:

i. A1, namely M/s.Dheeran Poultry Farms to pay fine of Rs.5,000/- for each offences and each counts under Section 420 I.P.C and Section 5 of TNPID Act (Rs.5,000 x 14 counts x 2 offences = Rs.1,40,000/-). A2 partner shall pay the fine amount equally imposed on the 1st Accused Firm, in default of payment of fine by A2, he should undergo one year simple imprisonment for each offences.

ii. A2, A4 to A6 each to undergo two years simple imprisonment and to pay fine of Rs.5,000/- for each counts (Rs.5,000 x 14 counts x 4 accused = Rs.2,80,000) under section 120 B of I.P.C, in default of payment of fine to undergo further one year simple imprisonment.

iii. A2, A4 to A6 to undergo three years simple imprisonment and to pay fine of Rs.5,000/- for each counts (Rs.5,000 x 14 counts x 4 accused = Rs.2,80,000) under section 420 I.P.C, in default of payment of fine to undergo further one year simple imprisonment.

iv. A2, A4 to A6 to undergo three years simple imprisonment and to pay fine of Rs.5,000/- for each counts (Rs.5,000/- x 14 counts x 4 accused = Rs.2,80,000/-) under Section 5 of T.N.P.I.D Act, 1997, in default of payment of fine to undergo further one year simple imprisonment, A2 to pay Rs.4,20,000/- and A4 to A6 each to pay Rs.2,80,000/-. Total fine amount is Rs.12,60,000/-.

4. Learned counsel for the petitioners/appellants would submit that the petitioners are the appellants 3 and 4 in CrI.A.No.391 of 2021 and Accused No.4 and 5 in C.C.No.28 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore. Learned counsel would further submit that the facts of the case remains that there are totally 14 depositors. The petitioners are alleged to have collected Rs.33,30,000/- from 14 depositors and in fact, the petitioners have settled the dispute in respect of seven depositors and they have received the amount towards settlement and given full quit, whereas the remaining seven depositors insisted for payment of interest on the deposits and thereby, there was a dispute. The trial court finding that the matter has not been settled in respect of seven depositors, had found the petitioners guilty and convicted them as stated above and also directed the payment of fine of Rs.12,60,000/- to be disbursed to the depositors.

5. Learned counsel for the petitioners would further submit that since the remaining seven depositors raised the dispute and insisted for payment of interest, the petitioners without prejudice, have also deposited amount of Rs.14,45,000/- by way of two Demand Drafts



in favour of the District Revenue Officer, Erode dated 16.04.2021 and 23.04.2021. However, due to pandemic situation and the poor financial condition, the petitioners were unable to deposit the balance amount and appraise the Court properly whereas the Court has found them guilty and convicted them as stated above. The petitioners after conviction have filed C.A.No.391 of 2021 and had moved the petition for suspension of sentence along with other accused in Crl.M.P.No.8278 of 2021. This Court by order dated 13.09.2021, had directed the petitioners and the other accused to deposit total fine amount of Rs.12,60,000/- to the credit of C.C.No.28 of 2013 before the trial court on or before 29.09.2021. Due to their poor financial condition, they were unable to deposit the fine amount and thereby this Court had directed issuance of NBW. Pursuant to which, the coaccused Sathishkumar and P.S.Kumar @ Sasikumar were arrested on 24.11.2021 and they were remanded to the judicial custody and thereafter, this Court in Crl.M.P.No.8278 of 2021, granted suspension of sentence to Sathishkumar and P.S.Kumar @ Sasikumar on condition that the said Sathishkumar shall deposit an amount of Rs.2,10,000/- and P.S.Kumar @ Sasikumar shall deposit a sum of Rs.1,40,000/- to the credit of C.C.No.28 of 2013 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore within a period of four weeks from the date of their release from jail. The above persons are taking steps to deposit the amount as ordered by this Court. The petitioners are respectively A4 and A5 and were administrators of the first accused firm. The petitioners have been directed to deposit the proportionate fine amount of Rs.2,80,000/- each. The petitioners with the help of friends and wellwishers raised an amount of Rs.2,80,000/- each to deposit towards fine amount. Learned counsel for the petitioners would submit that in order to show their bonafide, the first petitioner is ready with two demand drafts dated 06.12.2021 in D.D.Nos.000732 and 000733 for Rs.1,40,000/- each, drawn on Equitas Bank in favour of Competent Authority/ District Revenue Officer, Erode. He would further submit that 2nd petitioner is ready with demand draft dated 21.12.2021 in D.D.No.000359 for Rs.2,80,000/- drawn on Equitas Bank in favour of Competent Authority/ District Revenue Officer, Erode to settle the depositors.

6. Learned counsel for the petitioners would submit that the petitioners are ready to ready to deposit the fine amount by way of the above Demand Drafts and they are prepared to abide by any stringent condition that may be imposed on them. According to the learned counsel for the Petitioners/A4 and A5, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioners/accused have got a fair chance of succeeding in the Criminal appeal Case and hence, the sentence imposed against the Petitioners/A4 and A5 may be suspended and the Petitioners may be enlarged on bail.

7. Mr.S.Sugendran, learned Government Advocate (crl side) appearing for the respondent would submit that this Court had



directed to deposit the fine amount however they have not deposited the fine amount and this Court had directed issuance of warrant. Pursuant to which, the accused Sathiskumar and P.S.Kumar @ Sasikumar were arrested on 24.11.2021 and they have been granted bail on condition to deposit the amount. He would further submit that the petitioners are absconding.

8. Heard the learned counsel for the petitioners and perused the materials on record.

9. Taking into consideration the fact that out of 14 depositors, seven depositors have been settled and the petitioners have also deposited the principal amount in respect of the remaining depositors and further they have also given undertaking to deposit the proportionate fine amount at the time of furnishing surety, this Court of the opinion that the substantive sentence of imprisonment alone can be suspended under the following conditions.

10. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail are granted, on the following conditions :-

i) The first petitioner/A4 shall deposit the D.D.Nos.000732 and 000733 and the second petitioner shall deposit the Demand Draft D.D.No.000359 before the Special Judge, Special Court under TNPID Act, Coimbatore.

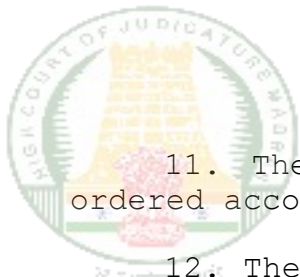
ii) After depositing the Demand Drafts, the petitioners/A4 and A5 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Special Judge, Special Court under TNPID Act, Coimbatore.

iii) The petitioners/A4 and A5 shall surrender within two weeks from the date of receipt of the copy of the order.

iv) In the event of the petitioners' failing to surrender and deposit the fine amount within two weeks, the order suspending the sentence will automatically be cancelled and the Trial Court shall take steps to secure the petitioners and commit them to prison.

v) On such surrender and deposit of D.D's, the learned Judge shall transfer the Demand Drafts to the account of the competent authority/D.R.O.

vi) The petitioners/A4 and A5 shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.



11. The Criminal Miscellaneous Petition No.13664 of 2021 is ordered accordingly.

12. The Criminal Miscellaneous Petition No.13654 of 2021 seeking for exemption from surrendering stands dismissed.

-sd/-

22/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE,
SPECIAL COURT UNDER TNPID ACT,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING-II,
ERODE

C.C. to M/S.P.KANNAN KUMAR Advocate on payment of necessary charges Sr.15375

Order

in

CRL MP.Nos.13654 and 13664 of 2021

in CRL.A.NO.391/2021

Date :22/12/2021

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

RVR 23/12/2021