IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No. 27916 of 2017 and
Crl.M.P.Nos. 15879 and 15880 of 2017

Shantha Bai ... Petitioner/A10

Versus

1.The State, rep. by
The Station House Officer,
CID Police Station,
Pondicherry. ... Respondent/Complainant

2. K.S. Rangadurai ... Respondent/Defacto complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the Charge Sheet filed in C.C.No. 1 of 2012 on the file of the learned Principal Sessions Judge, Puducherry, (Amended as per the order of this Court dated 22.01.2018 made in Crl.M.P.No.594 of 2018 in Crl.O.P.No.27916 of 2017) and quash the same.

For Petitioner : Mr.R. Sreedhar

For Respondent-1 : Mr.Bharatha Chakaravarthy
Public Prosecutor,
Puducherry.

O R D E R

This Criminal Original Petition has been filed seeking to quash the charge sheet filed in C.C.No. 1 of 2012 on the file of the learned Principal Sessions Judge, Puducherry,

2. The case of the prosecution is that the de-facto complainant has deposited a sum of Rs.3,32,000/- in fixed deposit vide No.212 to get a moderate monthly interest at the rate of 18% to meet his monthly expenses with the said Tirumala Benefit Fund Limited, Pondicherry. K.Ravindran, is the Managing Director of the said Company and his own brothers Mahendran and

Nagendiran are the Directors of the said Company. The above three persons were overall in-charge of the transactions and they were handling all the transactions of the deposited amount. Subsequently, the defacto complainant has received monthly interest directly in person upto May 2005. Thereafter, when he went to collect the same, the company was found locked. When the defacto complainant tried to get his money back, he could not get any response from the Management. Further, he came to know that the deposited amount of Rs.3,32,000/- was misappropriated by the management of the said company. Hence, he lodged a complaint with the Superintendent of Police (CID), Pondicherry, the 1st respondent herein, who in turn registered a case against the petitioner/A10 and others for the offences under Sections 409, 420, 120-B IPC r/w Section 34 IPC and u/s 3 of the Pondicherry Protection of Interest of Depositors (In Financial Establishment) Act, 2004. Now, the petitioner/A10 has come before this Court with this Criminal Original Petition seeking to quash the proceeding in C.C.No.1 of 2012.

3. The learned counsel for the petitioner/A10 has contended that there is no material in this case to hold that the petitioner has committed the offence as alleged by the prosecution. Initially, the petitioner was acted as one of the Directors of the Thirumala Benefit Fund Limited and subsequently, on 10.08.2003, she resigned the post and Form No.32 was submitted before the Registrar of Companies and hence, she had resigned from the Directorship of the company as early as on 10.08.2003, whereas the alleged misappropriation and cheating by the company said to have been taken place between 07.10.2003 and May 2005. Therefore, it is clear that the petitioner has resigned the post in the year 2003 and the alleged offence had happened in the year 2005, hence, this petitioner cannot be held responsible for the alleged act which took place after her resignation.

4. The learned Public Prosecutor appearing for the 1st respondent contended that there is material available in this case to show that there is prima facie case as against this petitioner/A10. The Company was incorporated during the year 1993 and at that time the petitioner/A10 was the Director of the company. There are 80 depositors who had deposited their hard earned money with the accused company at the time when the petitioner was the Director of the company. The Thirumala Benefit Fund Limited (A1) had fraudulently defaulted in repayment of deposits on maturity to its depositors making itself liable for proceedings under the Act. The provisions of the Act shows that prima facie there are materials to charge the petitioner and hence, no detailed evaluation of the materials or meticulous consideration of the possible defence is required at this stage warranting a discharge.

5. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor, Pondicherry, appearing for the first respondent and perused the materials available on records.

6. On a perusal of the records, it is seen that the petitioner/A10 Shantha Bai, has been charged for the commission of offence under Sections 409, 420, 120-B IPC r/w Section 34 IPC and u/s 3 of the Pondicherry Protection of Interest of Depositors (In Financial Establishment) Act, 2004 and the case of the prosecution is that the petitioner/A10 along with others, in the course of conducting business and affairs of A1 Company namely Thirumala Benefit Fund Limited, Pondicherrty appear to have collected deposits from the public and in furtherance of common intention have fraudulently defaulted in repayment of deposits on maturity along with interest as promised and fraudulently failed to render service as assured, with an intention of causing wrongful gain to themselves and wrongful loss to the defacto complainant and others, dishonestly misappropriated the money acquired from the deposits made by the defacto complainant and other depositors and converted to their own use, deceived and induced the depositors fraudulently and dishonestly to deposit their money with A1 Company with promises of huge returns and fraudulently failed to repay the deposited amounts causing damage and harm to the defacto complainant and other depositors in body, mind and property and thereby cheated the depositors, criminally conspired in the diversion of the deposited amount, and hence, the petitioner/A10 along with others have committed the offences punishable under Sections 409, 420, 120-B IPC r/w Section 34 IPC and u/s 3 of the Pondicherry Protection of Interest of Depositors (In Financial Establishment) Act, 2004.

7. It is an admitted fact that A1 Company, namely Thirumala Benefit Fund Limited, Puducherry, was incorporated on 24.03.1993 and at the time of incorporation the Board of Directors of the Company were (i) R.K.Ravindran-Managing Director, (ii) R.K.Mahendiran-Director, (iii) D.Jeevarathinam-Chairman, (iv) R.Isabella-Director, (v) Nanjundeeswaran-Director (vi) Ramamoorthy - Director, (vii) Shantha Bai-Director, (viii) Hemavathy-Director, (ix) Gayatri-Director and (x) Birundha-Vice Chairman. The contention of the petitioner is that she has resigned the post of Directorship on 10.08.2003 itself and hence, for the offences alleged to have been occurred during the year 2005, she is not held liable. On perusal of Form No.32 issued by the Registrar of Companies, Pondicherry and the annual returns for 2003-2004, it could be seen that the petitioner has resigned the post of Directorship on 11.08.2003. Therefore, it is evident that the petitioner/A10 had resigned the post from A1 Company in the year 2003 itself. The contention of the learned Public Prosecutor is that while the petitioner/A10 was the

Director of the said company, there were 80 depositors who had deposited their hard earned money in A1 Company and subsequently, the accused persons including the petitioner/A10 have cheated them. The contention of the learned Public Prosecutor was not substantiated by any material evidence because the petitioner/A10 has resigned from the A1 Company on 11.08.2003 itself. The alleged complaint from the depositors came to be filed only during 2005 and that there is no evidence regarding the participation of the petitioner/A10 in the administration of A1 Company after her resignation from the Directorship and hence, there is no substance in the contention of the learned Public Prosecutor and that apart the Puducherry Protection of Interest of Depositors (In Financial Establishment) Act, 2004 was enacted only in the year 2004.

8. Accordingly, this Criminal Original Petition is allowed, and the proceedings in C.C.No. 1 of 2012 on the file of learned Principal Sessions Judge, Puducherry, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msm

To

1.The Station House Officer,
CID Police Station,
Pondicherry.

2.The Public Prosecutor,
Pondicherry.

+1cc to M/s.R.Sreedhar, Advocate Sr No.36639

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RSV (CO)
PR (16/09/2021)