



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 16.03.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C. (MD)No.159 of 2021

and

CrI.M.P. (MD)No.1733 of 2021

G.Ramdoss

.. Petitioner/Petitioner/Accused No 5
Vs.

The State rep. Through
The Deputy Superintendent of Police,
Economic Offences Wing - II,
Madurai District.
(Crime No.6 of 2010)

.. Respondent/Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the order dated 29.01.2021 made in CrI.M.P.No.3562 of 2018 passed by the learned Special Judge for TNPID Act cases, Madurai District and to set aside the same.

For Petitioner	: Mr.D.S.Haroon Rasheed
For Respondent	: Mrs.S.Bharathi
	Government Advocate (CrI. Side)

ORDER

This petition has been filed to set aside the order passed in CrI.M.P.No.3562 of 2018 dated 29.01.2021, on the file of the learned Special Judge for TNPID Act Cases, Madurai.

2.The case was registered against the petitioner in Crime No.6 of 2010 under Sections 406, 420, 120(b) of IPC r/w. Section 5 of TNPID Act and the same was taken on file as C.C.No.11 of 2013 and the same is pending before the Special Court for TNPID Act Cases, Madurai. The petitioner has filed a petition in CrI.M.P.No.3562 of 2018 to discharge him from the charges. That petition was dismissed by the Special Court. Against the same, the petitioner preferred this revision.

3.On the side of the petitioner, it is stated that the petitioner was mentioned only as A5 in the case. The petitioner is not a partner in the A1's company. The petitioner is not administrator of the company. The name of the petitioner does not found place in the FIR. The petitioner did not canvass for the deposit. The petitioner has not received any amount from the public. Only because some victims have stated that the petitioner was present at that time, the petitioner was roped into the case. Even canvassing for the deposit is not an offence and prayed the petition to be allowed.



4.The learned counsel for the petitioner would rely upon the judgment passed by this Court in the case of **Prasannadevi V. State of Tamil Nadu** reported in **CDJ 2009 MHC 3490**, wherein it is stated as follows:

"12.The fact remains that the petitioner was not a partner of the partnership firm charged in this case under Section 5 of the TNPID Act. The only allegation levelled by the witnesses examined on the side of the prosecuting agency is that the petitioner canvassed for deposits for the financial institution. To invoke the penal provision under Section 5 of the TNPID Act, one should shoulder the responsibility of managing the affairs of the financial firm or company. I find that the provision under Section 5 of the TNPID Act has been drafted very carefully. A person who merely manages the affairs of a firm or a company viz., Clerks, Accountants, Office Assistants, who are just paid servants would not be responsible for the management in the sense that they are not answerable to the claim made against the financial firm. In other words, a person, who simply manages the affairs of a firm, cannot be said to have taken the responsibility of answering the allegation of mis-management of the affairs of the firm. The Clerks, Accountants and Office Assistants come under the said category. They have been given a role to manage the affairs of the partnership firm, but they are not responsible for the mis-management of the firm when the same is under challenge by a third party. All the persons who manage the affairs of the financial institution need not necessarily be responsible for the management of the affairs of the institution. What is required under Section 5 of the TNPID Act is that the person charged should have been responsible for the management of the institution. The persons who simple manages the affairs of the financial institution as paid servant fall out the ambit and scope of the aforesaid provision of law."

5.On the side of the respondent, it is stated that A5 is the administrator of the company. A3 is the wife of A2. A4 is the son-in-law of A2. A5 is another son-in-law of A2. A1 is the Global Capital Trading Services company. 19 persons were cheated by the petitioners and others. The default amount is Rs.2,89,60,990/-. The petitioner and others canvassed the depositors in Theni at Pethanachi Kalyana Mandapam. The petitioner is one of the administrators of the company. The petitioners and others are filing various petitions with a motive to escape the clutches of law. L.W.6 and L.W.17 has given a statement regarding the petitioner. Witnesses



Srinivasan and Baskaran have given statements against the petitioner. There are sufficient materials against the petitioner. There is *prima facie* case made out against the petitioner. The involvement of the petitioner can be decided only after the completion of the trial and prayed the petition to be dismissed.

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6.It is seen that the petitioner is the son-in-law of A2. L.W.6 and L.W.17 gave statements against the petitioner. The involvement of the petitioner can be decided only after the trial.

7.In the above circumstances, there is nothing sufficient enough to interfere in the order of the trial Court. Hence, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Special Judge, Special Court under TNPID Act Cases, Madurai.
- 2.The Deputy Superintendent of Police,
Economic Offences Wing - II,
Madurai District.

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C. (MD) No.159 of 2021
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SRK(CO)
KB(29.03.2021) 3P 4C