



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 14.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.4276 of 2021
and
Crl.MP(MD)No.2395 of 2021

J.Rengarajan ... Petitioner/Accused No.3

Vs.

1.The Inspector of Police,
District Crime Branch,
Theni District, Theni. ... 1st Respondent/Complainant

2.T.Kumravadivel ... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order passed in C.C.No.8 of 2009, dated 06.03.2021 by the learned Special Court for TANPID (F.Es) Act, 1997, Madurai, insofar as adding of Sections 406 and 420 of IPC is concerned and allow the above Criminal Original Petition.

For Petitioner : Mr.Veerakathiravan, Senior Advocate,
for Mr.C.Jeganathan

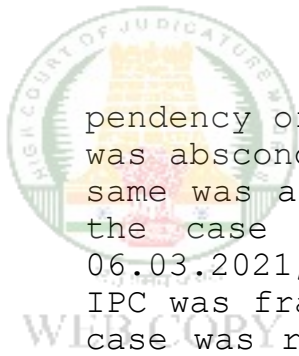
For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This petition is filed seeking to set aside the order passed in C.C.No.8 of 2009, dated 06.03.2021, by the learned Special Court for TANPID (F.Es) Act, 1997, Madurai, insofar as adding of Sections 406 and 420 of IPC are concerned.

2. Case of the petitioner in brief:-

The petitioner is the third accused in C.C.No.8 of 2009. He is facing the trial before the Special Court for TANPID (F.Es) Act, 1997, Madurai. Originally, a case was registered in Crime No.14 of 2006 arraying this petitioner along with 3 others as accused under Section 5 of the above said Act. They had started a Financial Company called ' Sri Gayathri Benefits Fund Ltd,' Theni. During the



pendency of the case, accused Nos. 2 & 5 died and the fourth accused was absconding. In which, the case, against him was split up and the same was assigned in C.C.No.3 of 2021. After the split up was over, the case was proceeded against this petitioner and others. On 06.03.2021, the additional charge sheet under Sections 406 and 420 IPC was framed along with Section 5 of the said Act. Originally, the case was registered under Section 5 of the TANPID Act, 1997. While framing the additional charge, the Trial Court did not consider the above said Act. Moreover, the ingredients under Sections 406 and 420 IPC are not attracted. Before framing the additional charge sheet, the Trial Court did not give any opportunity to the petitioner, to put forth his case. Hence, this petition.

3. The short point, which arises for consideration in this petition is **whether the additional charge that has been framed by the Trial Court, on 06.03.2021, is valid under law.** The power of the Trial Court to frame additional charge at any time is well recognized and that cannot be challenged by the petitioner.

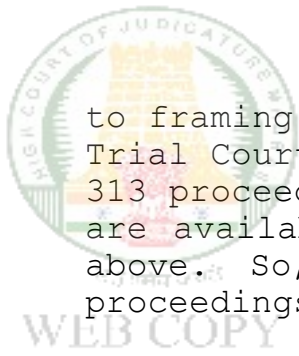
4. The learned counsel for the petitioner would submit that even at the time of filing the final report, the ingredients of the offence under Sections 406 & 420 IPC was not mentioned.

5. A reading of the statement recorded during the course of investigation as well as averments made in the final report shows that there are enough materials collected during the course of investigation for framing charges under Sections 406 & 420 IPC. So, the contention on the part of the petitioner that no materials were available to frame additional charge is not at all correct on record.

6. But, however, the petitioner would say that subsequent to the framing of the above said charges under Sections 406 & 420 IPC, Lok Adalat on 10.04.2021, before the Legal Service Committee, Madurai settlement was reached between the parties and the amount that has been payable by LW.1 namely, Kumaravadivel, L.W.5, namely, Sakthivel, LW.4, namely, Viswanathan, was settled by way of mutual agreement between the parties. Since LW.1 died, the amount payable by him was also deposited through Demand Draft and it was agreed. The Competent Authority may decide to give that amount to the legal heirs of the deceased Sundararam. The total amount, which was agreed as Rs.3,88,193/- lakhs. It was also paid through Demand Draft and deposited before the Competent Authority. On that ground, award was passed.

7. As mentioned above, the additional charge have been framed much earlier to the award passed by the Lok Adalat. So, the order of framing charges under Sections 406 & 420 IPC cannot be set aside.

8. As stated above, the award has been passed, only subsequent



to framing of the additional charges. So, the proceedings before the Trial Court has to be taken to its logical conclusion and during the 313 proceedings, the petitioner may produce all the documents, which are available with him to show the subsequent development as noted above. So, when such documents are filed during the relevant proceedings, the Trial Court may consider the same.

9. With the above said liberty, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 Court for TANPID (F.Es) Act, 1997,
Madurai.
- 2.The Inspector of Police,
District Crime Branch,
Theni District, Theni.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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