



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No. 18995 of 2021

and

Crl.M.P.(MD)Nos.10540 & 10541 of 2021

1.Rakesh Singh Narwaria

2.Girja Narwaria

... Petitioners

Vs.

1.The State represented by
The Inspector of Police,
Economic Offence Wing-II,
Madurai.

(Crime No.1 of 2016)

... 1st Respondent/Complainant

2.S.T.Sankara Subramaniyan

... 2nd Respondent/
Defacto Complainant

3.The Deputy Superintendent of Police,
CBI, EOW,
Chennai.

... 3rd Respondent

(R3 suo motu impleaded as per order
dated 03.12.2021 in Crl.O.P(MD)No.18995 of 2021)

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the case in C.C.No.6 of 2018 on the file of learned Special Court, TNPID Act, Madurai and quash the same.

For Petitioners : Mr.Ajmal Khan
Senior counsel for M/S.Ankit Anandharaj Shah

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor for R.1

Mrs.L.Victoria Gowri
Assistant Solicitor General of India for R.3



ORDER

Heard the learned Counsel for the petitioners, learned Additional Public Prosecutor for the first respondent and the learned Assistant Solicitor General of India for the third respondent.

2. Crime No.1 of 2016 was registered on the file of the Inspector of Police, EOW-2, Madurai against Parivar Diaries and Allied Limited and others for the offences under Sections 406, 420 and 120 B IPC and Section 5 of Tamil Nadu Protection of Interest of Depositors(In Financial Establishment)Act, 1997. The case of the prosecution is that the accused financial establishments collected huge sums of money from gullible depositors over a period of time and did not return the same. The case was investigated and a final report was filed by the State Police against as many as 20 accused. Cognizance of the offences was taken and the case also was taken on file in C.C.No.6 of 2018. In the meanwhile, Crl.O.P.(MD)Nos.10036 and 11021 of 2016 was filed by some of the affected parties seeking transfer of investigation. The said Criminal Original Petition was disposed of on 11.09.2018 and the following directions were issued:-

"12. In the facts and circumstances of the case, this Court deems it fit to transfer the investigation in this case to the file of the CBI. The Deputy Superintendent of Police, Economic Offences Wing IT, is directed to hand over the entire case diary to the second respondent namely, the The Joint Director and Head of the Zone, Central Bureau of Investigation (CBI), within a period of one month from the date of receipt of a copy of this order. The Joint Director and Head of the Zone, Central Bureau of Investigation (CBI), shall immediately assign the task of investigation to the senior officer of CBI. Since the CBI is already involved in the investigation insofar as the connected cases arising from Madhya Pradesh, the Officer, to whom the case is assigned shall also coordinate with the officer, who are already conducting the investigation pursuant to the orders of the High Court of Madhya Pradesh.

13. This case involves the interest of lakhs of innocent depositors, who have lost their hard earned money. The accused persons having cheated such a large number of people and are moving around freely without any effective action being taken against them. This Court reposes its confidence on the CBI to immediately take up the investigation and bring the accused persons to book and try to recover the amount in order to distribute it to the innocent depositors.

14. Since this case involve the interest of large

numbers of people who had made their deposits, this



Court in order to ensure that the investigation proceeds in the right direction wants to keep these criminal original petitions pending. The officer, to whom the case is assigned by the CBI shall file a status report before this Court once in a three month."

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3. Pursuant to the aforesaid directions, CBI took up the investigation and filed its supplementary final report before the Special Court. The grievance of the petitioners herein is that while cognizance of the supplementary charge sheet filed by CBI is yet to be taken, the Special Court had issued summons based on the earlier final report filed by the State Police.

4. I find considerable force in the contention of the learned senior counsel appearing for the petitioners. When once further investigation was ordered by this Court and the investigation was also transferred to CBI and CBI had also filed the final report and the cognizance of the supplementary final report is yet to be taken, on the basis of the cognizance taken by the Court below in respect of the earlier final report, summons could not have been issued. However, I reject the contention of the learned senior counsel that on this score, the proceedings have to be quashed. What was ordered by this Court was further investigation in the interest of the depositors. Therefore, the proceedings will have to be necessarily be kept alive. I wanted to know if there is commonality in the array of accused in the final report filed by the State Police and the supplementary final report filed by the CBI. I find that there is substantial commonality except in the case of the second petitioner herein. The second petitioner namely, Girja Narwaria is the wife of one of the prime accused. Though she was also named in the earlier final report, her name does not find place in the supplementary final report by the CBI. Therefore, issuance of summons to the second petitioner is quashed. The Court below is directed to take a call on the supplementary final report filed by the CBI at the earliest and without much of delay. This Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitioners are closed.

Sd/-

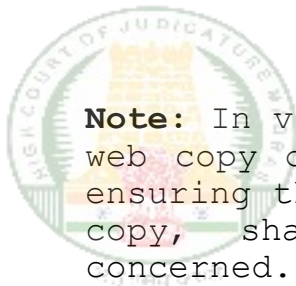
Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Special Court,
TNPID Act,
Madurai.
- 2.The Inspector of Police,
Economic Offence Wing-II,
Madurai.
- 3.The Deputy Superintendent of Police,
CBI, EOW,
Chennai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.ALAGU SUNDAR, Advocate (SR-38380[F] dated 13/12/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-38713[F] dated 14/12/2021)

Crl.O.P. (MD)No.18995 of 2021 and
Crl.M.P. (MD)Nos.10540 & 10541 of 2021
10.12.2021

RD(22.12.2021) 4P 7C