



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.04.2021

Pronounced on : 03.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

Crl.R.C.(MD)No.250 of 2017

WEB COPY

K.S.Palanichamy

... Petitioner/Accused A-2

Vs.

1.The State represented by
The Inspector of Police,
E.O.W-II,
Dindigul.

... 1st Respondent/Complainant

2.Rathnakumar

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records pertaining to the order taking cognizance passed by the learned Special Judge for TNPID Act cases at Madurai in the above C.C.No.24 of 2013 dated 08.04.2013 which was the culmination of the second FIR in Crime No.2 of 2011 of the E.O.W-II, Dindigul, and set aside the same.

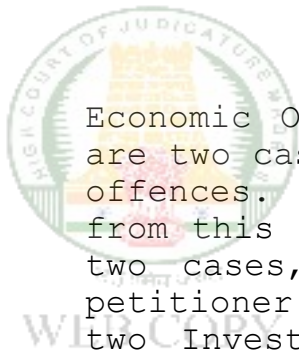
For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl. Side) for R1

O R D E R

This Revision Petition is filed against the order passed by the learned Special Judge for TNPID Act cases at Madurai in C.C.No.24 of 2013 dated 08.04.2013.

2.The learned counsel appearing for the petitioner would submit that the petitioner herein had been arrayed as an accused in the case pending before the learned Special Judge for TNPID Act cases, Madurai. It is the contention of the learned counsel for the petitioner that already a case was registered against the petitioner by Economic Offence Wing and in this regard, investigation has already been completed and a charge sheet has also been filed before the learned Special Judge for TNPID Act cases, Madurai. Subsequently, A2, who had been running the Company, was arrayed as an accused in yet another criminal case by the Economic Offence Wing, Dindigul. The very same Company is an accused under the



Economic Offence Wing, Dindugal under TNPID Act cases. Now, there are two cases pending against the very same person for the very same offences. Therefore, the learned counsel seeks appropriate orders from this Court, clubbing the subject matter in the charge sheet of two cases, so that only one case can be proceeded against the petitioner. Two charge sheets were framed for the same offence by two Investigation Officers of the Economic Offence Wing. One by Economic Offence Wing, Dindugal and another by Economic Offence Wing, Madurai.

3.The learned counsel would further contend that the Investigation Officer may be directed to club the offences into one single charge sheet, since the offences are same, the company is same, the accused are same and only the witnesses are vary. He would rely on the decision of the Hon'ble High Court of Andhra Pradesh reported in **CDJ 2015 APHC 481 (Veerabhadram Vislavath Vs. The State of Andhra Pradesh and another)**, wherein, in paragraph No.7, it had been discussed as follows:-

"7.POINT: There can be no demur that perusal of FIR No.250 of 2013 shows that it contains strong prima facie allegations against all the accused. Be that as it may, when the allegations in FIR No.250 of 2013 and allegations in FIR No.216 of 2013 a copy of which is filed by the petitioner, are compared, they would show that both the FIRs contain same set of facts and allegations against the accused. Except the narration wise difference difference here and there, the main incidents relating to the offences are virtually same in both the FIRs. Crime No.216 of 2013 is the earliest one lodged by G.Vani on 20.05.2013 at about 20.00 hours in Bowenpally P.S. whereas FIR No.250 of 2013 was also lodged on 20.05.2013 at about 21.00 hours by G.Mallesham in Balanagar P.S.

a) Now the question is whether two or more separate complaints in different police stations relating to same offence/occurrence can be lodged and investigated into. It must be said that this legal question is no more res integra and the same was dealt with by a learned Judge of this High Court in a recent decision reported in Akbaruddin Owaisi Vs. The Government of Andhra Pradesh (2014) CriLJ 2199 (AP). In that case the questions that came up for consideration are:

"Does Section 154 of the Criminal Procedure Code 1973 (hereinafter called "Cr.P.C.") permit registration of two separate complaints in two different police stations for offences arising out of one occurrence/event/incident? If so, does the Cr.P.C. permit parallel and simultaneous investigations being conducted there into? If, on the other hand, the Cr.P.C. does not permit two parallel investigations by police officers of two different police stations, for offences arising out of the same incident, can the Station House Officer or the Magistrate transfer the



complaint registered in one police station to the other for investigation even if both the police stations have territorial jurisdiction to register and investigate the said complaint? In such a case, should the transferred complaint be treated as a Section 162 Cr.P.C. statement by the Station House Officer of the police station to which it is transferred?"

Discussing various decisions on the subject in issue, learned Judge held thus:

"Considering the submission of the learned Counsel and in the facts and circumstances of the cases, the office concerned, before whom one of the cases is transferred, is hereby directed to treat the other cases registered in various police stations as also the fresh complaints in connection with the same transaction as statements of other aggrieved persons and investigate the matter as one case and file a final report either way before the Court concerned....."

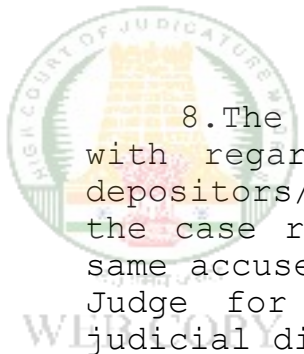
The above decision a fortiori applies to the present case also since two successive FIRs are registered in two different police stations in respect of same set of facts constituting offences. Therefore, simultaneous and parallel investigation in the above two FIRs cannot be permitted. On the other hand, the investigation in earlier registered FIR No.216 of 2013 of Bowenpally P.S shall be continued to its logical end and whereas the FIR No.250 of 2013 of Balanagar P.S and the statements if any recorded shall be liable to be transmitted to the file of Crime No.216 of 2013 of Bowenpally P.S to serve the purpose as 161 Cr.P.C statements."

4.Mr.A.P.G.Ohm Chairma Prabhu, the learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the TNPID Court having jurisdiction over the Southern districts is at Madurai and the Economic Offence Wing-II, Dindigul had filed separate charge sheet in C.C.No.24 of 2013 and the Economic Offence Wing-II, Madurai had filed separate charge sheet in C.C.No.11 of 2013 and both the cases are pending.

5.Heard Mr.D.S.Haroon Rasheed, learned counsel appearing for the Revision Petitioner and Mr.A.P.G.Ohm Chairma Prabhu, learned Government Advocate (Crl. Side) appearing for the first respondent.

6.The point for consideration in this Criminal Revision Case is whether the two charge sheets can be clubbed together.

7. It is true that the accused in both the cases are Company, its Directors and Partners. Regarding the prayer for clubbing of both the cases, it is for the Court to decide.



8.The case arising out of the complaint at Dindigul District is with regard to misappropriation of the amount deposited by the depositors/defacto complainants from Dindigul District. Likewise, the case relating to the complaint at Madurai is also against the same accused but the complainants are different. The learned Special Judge for TNPID Act Cases can club the cases together by his judicial discretion. Thereby, the earliest charge sheet may be taken on file and the later charge sheet can be annexed as the list of witnesses are same. By doing so, the witnesses are not prejudiced and by a single trial, the accused can be tried and subsequently, if the case is proved against the accused, they can be convicted.

9.The reliance placed upon by the learned counsel for the revision petitioner reported in **CDJ 2015 APHC 481 (Veerabhadram Vislavath Vs. The State of Andhra Pradesh and another)** is found acceptable. In the light of the above discussion, the point for consideration is answered in favour of the revision petitioner.

10.Considering the arguments of the learned counsel for the revision petitioner and the fact that the accused are same in both the cases and the alleged offences are same, the learned Special Judge for TNPID Act Case, Madurai is directed to club the cases. The final report in Crime No.2 of 2011 filed by the Economic Offence Wing-II, Dindigul taken cognizance by the learned Special Judge for TNPID Act Cases, Dindigul, in C.C.No.24 of 2013 shall be clubbed with the final report in Crime No.6 of 2010 filed by the Economic Offence Wing-II, Madurai taken cognizance by the learned Special Judge for TNPID Act Case, Madurai in C.C.No.11 of 2013. After examination of the witnesses in C.C.No.11 of 2013, the list of witnesses mentioned in C.C.No.24 of 2013 is to be continued and clubbed with the list of witnesses in C.C.No.11 of 2013. Thereby, by a single case, the accused can be tried and the properties in both the districts, if acquired by the accused can be attached by appropriate order by the learned Special Judge for TNPID Act Cases, Madurai.

In the result, this Criminal Revision Petition is allowed. The two charge sheets pending in C.C.No.24 of 2013 on the file of the E.O.W - II, Dindigul and C.C.No.11 of 2013 on the file of the E.O.W - II, Madurai is directed to be clubbed by the learned Special Judge, Special Court under TNPID Act at Madurai.

Sd/-

Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)



To:

- 1.The Special Judge for TNPID Act Cases,
Madurai.
- 2.The Inspector of Police,
E.O.W-II,
Dindigul.
- 3.The Inspector of Police,
E.O.W-II,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.R.C. (MD) No.250 of 2017
03.09.2021

MGJ(29.09.2021) 5P 5C