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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.7 of 2022

1. Chinnakalippan

2.Kannammal

... Petitioners/Complainants

Vs.

State rep by
The Inspector of Police,
Economic Offences Wing-2,
Sidco, Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai - 600 002.

.... Respondent/Respondent

PRAYER : Criminal revision is filed under Section 397 & 401 of Criminal Procedure Code to set aside the order passed in Crl.MP.No.1946 of 2021 in CC.No.8 of 2019 on the file of the Special Judge under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai dated 02.11.2021.

For petitioners : Mr.B.Kumarasamy

For respondent : Mr.S.Sugendran, GA (Crl.side).

O R D E R

(This case has been heard through video conference)

This criminal revision has been filed against the order dated 02.11.2021 made in Crl.MP.No.1946 of 2021 in CC.No.8 of 2019 passed by the Special Judge under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai dismissing the petition filed by the petitioner under Section 5 of the TNPID Act and under Section 173(8) of Cr.PC.

2. The brief facts of the case is as follows:-

The petitioners claim themselves to be depositors in Amaravathi Benefit Fund Limited at Tiruppur District. It is the

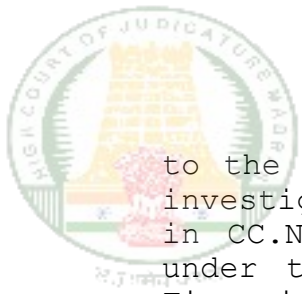


contention of the petitioners that they are husband and wife and they deposited a sum of Rs.8,59,600/- in Amaravathi Benefit Fund Limited and the said company had issued 18 bonds to them. Despite the deposits having matured, the company failed to return the deposited amount to the petitioners, all of sudden the company had also been closed.

3. It is their further case, that they made complaint before the respondent police on 13.07.2020. Since, no action was taken by the respondent, the petitioners had also filed direction petition before this Court in CrI.OP.No.20422 of 2020 to register the FIR on the complaint dated 13.07.2020. During hearing, it was represented by the Additional Public Prosecutor that the enquiry was completed and final report has been filed and the case has been taken up in CC.No.8 of 2019 before the trial Court, this Court had closed the petition. It is the grievance of the petitioners that the respondent failed to investigate in respect of their complaint dated 13.07.2020 and file their additional final report. Since, the respondent had failed to conduct further investigation they had filed the petition under Section 5 of the TNPID Act and Section 173(8) Cr.PC. The Trial Court finding that the petitioners had not preferred any fresh complaint or any representation to the respondent/police to add them as depositors/witnesses in the case after disposal of CrI.O.P.No.20422 of 2020 had dismissed the petition, stating that it lacks merits and the petitioner cannot seek direction as a matter of right. Against the dismissal, the present revision has been filed.

4. The learned counsel for the petitioner at the outset would submit that the petitioners having deposited the amount in Amaravathi Benefit Fund Limited, fall within the category of victims. The petitioners have filed the petition seeking for further investigation, whereas the Court had dismissed their application. He would submit that in similar circumstances, depositors like that of the petitioners who have been left out to be added in the final report have approached this Court by filing petition under Section 482 Cr.PC and this Court had granted liberty to give necessary particulars to the police with regard to the deposits made by them and in the event of the police getting satisfied that the deposits have been made, the respondent/police were directed to include the names of the victims in the case and to proceed further in accordance with law. The petitioners, had in fact approached the respondent, however, they have not taken any steps.

5. Mr.Sugendran, learned Government Advocate (crl.side) would submit that the petitioners claim to have deposited a sum of Rs.8,59,600/- in Amaravathi Benefit Fund Limited. The said Amaravathi Benefit Fund Limited had cheated about 250 depositors



to the tune of Rs.14crores. The respondent after completion of investigation had filed final report and the case has been taken in CC.No.8 of 2019 and pending trial before the Special Judge under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai for the offences under Section 5 of the TNPID Act and sections 420, 406 and 120 (B) IPC. The petitioners had not produced the original documents (deposit receipts) and thereby the respondent has not included them as witnesses in this case.

6. Mr.Jayachandran, Inspector of Police/respondent is present before this Court through video conference. He would submit that the petitioners had appeared for enquiry, however, since they did not produce any original documents, they were not added as witnesses.

7. At this juncture, Mr. B.Kumarasamy, learned counsel appearing for the petitioner would submit that the original documents are available with the petitioners and they are ready to produce them to the respondent.

8. The Trial Court finding that the petitioners had not made any representation to the respondent and finding that the petitioners cannot seek for a direction as a matter of right, had dismissed the petition. The Trial Court ought to have directed the respondent to conduct enquiry with regard to the veracity of the claim of the petitioners and if their grievance was found to be genuine ought to have directed the respondent to take steps to include them as witnesses in the case.

9. Taking into consideration, the plight of the petitioners that they have also been cheated by the accused/financial institution, liberty is granted to them to furnish necessary particulars to the respondent/police. The respondent/police shall conduct an enquiry and if the grievance of the petitioners is found to be genuine shall take appropriate steps to include them as witnesses in this case and the trial Court shall proceed further in accordance with law.

10. The criminal revision is disposed of with the above directions.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai.

2. The Inspector of Police, Economic Offences Wing-2, Sidco, Thiru-Vi-Ka Industrial Estate, Guindy, Chennai - 600 002.

Copy to: The Section officer,
Criminal Section,
High Court, Madras-104.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.2154

Cr1.RC.No.7 of 2022.

JPL (CO)
CB(12/01/2022)