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Crl.A.No.382 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.382 of 2018

J.Lingeswari

... Appellant

Vs

State represented by:

The Deputy Superintendent of Police,

E.O.W.II,

Salem District.

...Respondent

PRAYER : Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code r/w Section 11 of TNPID Act, to set aside the Judgment dated 19.06.2017 passed by the Special Judge, Special Court under TNPID Cases, Coimbatore in C.C.No.2 of 2011.

For Appellant : Mr.M.N.Balakrishnan

For Respondent : Mr.A.Gopinath

Government Advocate (Crl. Side)

JUDGMENT

The learned counsel for the appellant without adverting to the merits of the case has come forward to deposit the entire principal amount claimed by the complainant and seek compounding of the offence. However, some of the depositors are not inclined to receive the principal amount but they are insisting



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for interest, which according to them is 15% per annum as promised by the finance company.

2. The learned counsel for the appellant circulated the order of this Court passed in W.P.No.13472 of 2019 dated 05.08.2019, wherein, this Court has passed the following order:

“2. There is already a sum of Rs.1,00,00,000/- which is available by way of deposit and this amount shall be disbursed to the depositors. Simultaneously, steps shall be taken to bring the properties for sale and the sale proceeds shall be used to settle the entire amount to all the depositors.”

3. It is submitted by the appellant that due to the interim order passed by this Court, the balance sum of Rs.3,09,35,925/- has been deposited. Hence, prayer for compounding the offence by invoking Section 5A of the TNPID Act. This plea though accepted by many of the depositors, who are parties in this batch of cases, not acceptable to some of the depositors.

4. In the said circumstances, this Court is of the view that the appeal shall be remitted back to the Special Court to record compounding of the



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offence, wherever the investors are ready to accept the principal amount. For the remaining depositors retry the case and decide whether offence under this Act is attracted against the accused and be dealt accordingly.

5. This Court takes note of the fact that there are materials to show that the prosecution has been launched against some of the sleeping partners and retired partners of the firm and their role in collection of deposit has not been clearly made out by the prosecution during the trial.

6. Hence, the order of the Court below is set aside. The case is remanded back for retrial. The Court below shall take note of the fact that the amount collected has already been deposited and most of the investors are ready to compound the offence.

7. Meanwhile the money deposited by the accused persons shall be invested in any one of the Nationalized banks to accrue interest. The fine amount if collected, shall be refunded to the accused persons, subject to the outcome of the trial.



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8. Accordingly, this Criminal appeal is allowed and the matter is remanded back for retrial.

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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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To

1. The Special Judge, Special Court under TNPID Cases, Coimbatore.
2. The Deputy Superintendent of Police,
E.O.W.II,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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