

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CrI.O.P. No.12250 of 2022
and C.M.P. No.6855 of 2022

1. Queen Emu Farms Private Limited @
Queen Emu Farms India Private Limited,
208, Tower India Complex, II Floor,
Near Police Station, Erode Main Road,
Perundurai - 638 052,
Erode District.
Represented by A2 and A3.
2. P.Mailsamy (A2)
3. P.Sakthivel (A3) ...Petitioners/Accused

Versus

1. The Additional Director General of Police,
North Zone, EOW, Chennai.
2. State Represented by
Inspector of Police,
Economic Offences Wing II,
Coimbatore District.
...Respondents/Complainant

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to withdraw and transfer the case from the Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositor Act, 1997, Coimbatore in C.C. No.24/12 and C.C. No.18 of 2013 to Special Judge for Tamil Nadu Protection of Interest of Depositor Act, 1997, Madurai along with Joint trial in C.C. No.34 of 2013.

For Petitioners : Mr. G.Murugendran

For respondents : Mr. A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to withdraw and transfer the case from the Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositor Act, 1997, Coimbatore in C.C. No.24/12 and C.C. No.18 of 2013 to Special Judge for Tamil Nadu Protection of Interest of Depositor Act, 1997, Madurai along with Joint trial in C.C. No.34 of 2013.

2. The case of the prosecution is that the petitioners 2 and 3 collected money from various depositors on behalf of first petitioner company and later did not refund the deposited amount to the depositors. Hence, complaints were made against the petitioners.

3. The learned counsel for the petitioners submitted that the deposit amount which were collected from the depositors were disbursed to the depositors through A1 company and there is no different transaction in the name of branch office. He further submits that the complainant had lodged complaint and the case was registered against the petitioner company in various respondent Police in Cr.No.3 of 2012 for the same offences. After completion of investigation, C.C. Nos.24/2012 & 18/2013 were filed for offences under Section 120(B), 406 and 420 IPC and under Section 5 of TNPID Act before the TNPID Court, Coimbatore and another case in C.C. No.34/2013 was filed under Section 120(B), 406 and 420 IPC was filed before the TNPID Court, Madurai. He further submits that the final report filed by the respondent clearly shows that the offences are same and the ingredients of the offences in other cases are same.

4. The main contention of the learned counsel for the petitioner is that for three different cases of same offences, conducting trial in different places, violates the constitutional right of the petitioner. Hence, he seeks withdrawal and transfer of cases in C.C. No.24/2012 and C.C. No.18 of 2013 pending on the file of Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositor Act, Coimbatore to the file Special Judge for Tamil Nadu Protection of Interest of Depositor Act, Madurai, to be tried along with C.C. No.34 of 2013.

5. The learned Additional Public Prosecution appearing for the respondents submitted that the matter is under trial and is posted for defense side witness before the TNPID Court at Madurai. Only to protract the proceedings, the petitioner has filed this Criminal Original Petition. Hence, he seeks dismissal of this petition.

6. Heard both sides.

7. At the outset, I am unable to persuade myself to the submission made by the learned counsel for the petitioner. It is relevant to note that the Economic Offences Wing-II of Erode District received a complaint from the defacto complainant and based on that complaint investigation was conducted and a case has been registered in Cr.No.3 of 2012 for offence under Section 120(B), 406 and 420 IPC and under Section 5 of TNPID Act and charge sheet has been filed in C.C. No.24/2012 before the learned Special Judge for TNPID Cases, Coimbatore. Similarly, on a complaint received from various persons from various districts against the petitioners, cases were registered and charge sheets have been filed in C.C. Nos.18/2013 & 34/2013 before Special Judge for TNPID Cases, Coimbatore & Special Judge for TNPID Cases Madurai District, respectively.

8. The contention of the petitioner that since the ingredients of the offences in the various C.C.'s are similar, they shall be treated as same offence, violates the principles of law. Perusal of the charge sheets show that the offence committed by the petitioners is distinct.

9. Section 219 Cr.P.C. provides mechanism to frame charges for three offences of same kind which took place within a year. Section 219 Cr.P.C. reads as follows;

" (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three."

10. The charge sheet filed in C.C. No.34/2013 before the trial Court at Madurai has different cause of action. It appears that occurrence is also different from the other two cases. Similarly the other two cases has different cause of action with each other. Therefore the contention of the learned counsel for the petitioner that all the cases which have different cause of action should be tried for the same offences, cannot be countenanced. This Court is of the view that the present petition is filed only to protract the proceedings before the trial Court.

11. In such view of the matter, this Criminal Original Petition is devoid of merits and stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To:

1.The Additional Director General of Police,
North Zone, EOW, Chennai.

2.The Inspector of Police,
Economic Offences Wing II,
Coimbatore District.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.G.Murugendran, Advocate SR. No. 38010

Crl.O.P.No.12250 of 2022

GY (CO)
PR (12/07/2022)