



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.04.2022

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.15052 of 2020
& Crl.M.P.No.5720 of 2020

1. Sakthi Emu Farms,
Shop No.100, Ammu Complex,
Kundrathur Road, Perunthurai, Erode.
2. S.Ramasamy,
S/o.Suppan,
Old No.34, New No.34,
Thoppupalayam, Paniyampalli,
Perundurai - 638 051, Erode. ... Petitioners/2nd Accused

/versus/

1. State Represented by,
The Inspector of Police, Economic Offences Wing - II, Erode.
2. The Competent Authority,
District Revenue Officer, Erode.
3. G.Kesavan,
S/o.Govindasamy,
D.No.11, Varathalampattu Village and post,
Anaikattu via., Velur Taluk, Velur District.
4. A.Ramesh,
S/o.V.Aasai,
No.240 C, 3rd Ward, Shanmuganathan Koil Street,
Anaipatti, Uttamapalayam Taluk,
Theni District. ... Respondent/Complainant

Impleaded R3, R4 as per order in Crl.M.P.No.7476 of 2020 in
Crl.O.P.No.15052 of 2020 dated 19.04.2022.

Prayer:-

This Criminal Original Petition is filed under Section 482
of Cr.P.C., pleaded to set aside the unnumbered
Crl.M.P.No...../2020 in C.C.No.15 of 2012 dated 14.08.2020
by Special Judge, Special Court under Tamil Nadu Protection of
Interest of Depositor Act, Coimbatore and direct the 2nd



respondent to settle and disbursement of the claim to the remaining depositors in accordance with Section 5A of Tamil Nadu Protection of Interest of Depositors Act, 1997 and compounding the offence in C.C.No.15 of 2012 and pass order.

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For Petitioners : Mr.M.Karthik

For R1 : Mr.S.Santhosh,
Government Advocate (Crl.Side).

For R2 : No appearance

O R D E R

Heard the Learned Counsel for the petitioners and the Learned Government Advocate (Crl.Side) for the respondent.

2. As per the direction of this Court, the respondent police has filed the status report detailing out the claims made by the depositors and the money held by the Competent Authority on behalf of the accused. In the said report, it is stated that, out of 36 claimants, 3 claimants were fully settled. 19 claimants were partially settled and 9 claims could not be contacted. Whereas 5 were yet to be settled. It is also placed on record that, out of 62 depositors, 26 depositors were settled by the petitioners directly. However, as against the claim of more than Rs.72 Lakhs, the petitioners has settled some of the claims directly and had deposited total sum of Rs.11,66,369/- with the Competent Authority to settle the remaining claimant. This amount not sufficient to settle all the remaining claimants. In these circumstances, during trial, the petitioners herein have not brought the facts before the Trial Court and above payments made directly to the 26 depositors and the money with competent authority kept for settling the remaining claimants. It is stated by the petitioners that, it is the responsibility of the Competent Authority, to place the facts before the Court, but failed. The accused persons who claims that, he has settled the money directly to some of the claimants, should have marked the relevant documents to prove the settlement by adducing defence evidence. Having failed to place proof before trial Court regarding payment of settlement to the claimants cannot be inferred. To claim the benefit conferred under Section 5A of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act, 1997, which reads as below:-

"5A.Compounding of offence. - (1) An offence punishable under section 5 may, before the institution of the prosecution, be compounded by the Competent authority or



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after the institution of the prosecution, be compounded by the Competent authority with the permission of the Special Court, on payment of the entire amount due to the depositors with or without interest.

(2) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken or continued against the offender, in respect of the offence so compounded and the offender, if in custody shall be discharged forthwith."

3. It is now brought to the notice of this Court that the trial Court has held the petitioners guilty and sentenced to undergo one day imprisonment and imposed fine. After delivery of judgment, facts of payment cannot be canvassed in the quash petition. It is for the petitioners herein to work out his remedy in his appeal against the judgment of the trial Court and establish his right to get the concession under Section 5A of the TNPID Act and get the offence compounded.

4. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The Inspector of Police, Economic Offences Wing - II, Erode.
2. The Competent Authority, District Revenue Officer, Erode.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.M.Karthik, Advocate, S.R.No.26798

Crl.O.P.No.15052 of 2020

GMR (CO)

CT 26/04/2022