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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.20027 of 2021
and
CrI.M.P.No.10890 of 2021

1. Siragiri Farms India (P) Limited,
33-Kanishka Complex, First Floor,
Opp. To Canara Bank, Kangeyam Road,
Chinnamalai, Erode District.
(Represented by A2, A3, A4).

2.A.Sathishkumar

3.K.Alagesan

4.A.Sasikumar

...Petitioners/Accused

Vs.

1. State represented by,
Inspector of Police,
Economic Offences Wing II Unit,
Erode.

2.Malarkodi

...Respondents/Complainants

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.3 of 2015 pending on the file of the Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositor Act, 1997, Coimbatore and quash the same.

For Petitioners: Mr.G.Murugendran

For R1 : Mr.E.Raj Thilak,
Additional Public Prosecutor

For R2 : Mr.K.Nagendra Prasad

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.3 of 2015, on the file of the Special Court for trying of cases under the Tamil Nadu Protection of Interests of Depositors Act, 1997, Coimbatore.



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2.The order of this Court, dated 27.10.2021 in Crl.O.P.No.20027 of 2021 is extracted as follows:-

"The petitioners/ A1 to A4 have filed the above petition seeking for quashing of C.C.No.3 of 2015 pending on the file of the Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositor Act, 1997 Coimbatore.

2.The contention of the petitioners is that totally there are 107 depositors in this case and the amount involved is Rs.1,39,03,568/-, for 87 depositors, the money has been paid to them and they received the same, deposed no further action necessary. With regard to 10 persons MOU showing settlement of dues, produced before this Court, for the balance 10 persons who were unable to be traced immediately, the Demand Draft to the tune of Rs.11,93,200/- in the name of Competent Authority/ District Revenue Officer, Erode, in Demand Draft No.006166 dated 18.10.2021 produced. He further submitted that, in view of the entire depositors having been paid, further prosecution is not necessary. Further the Competent Authority can invoke Section 5A of the Tamil Nadu Protection of Interest of Depositors Act and compound the offence. The Competent Authority is not receiving the Demand Draft for the ten untraceable persons and acknowledging the settlement made to 97 depositors. He further submitted that, on 25.10.2021 the trial Court questioned the accused under Section 313 of Cr.P.C. Thereafter, the case is posted to 27.10.2021. On 27.10.2021 the petitioners/accused were given last chance to examine the defence witness. He further submitted that, thereafter, shortly judgment would be rendered. The petitioner's grievance is that when majority of the depositors settle, the balance 10 persons Demand Draft made ready and the petitioners interest is to settle the depositors. The Competent Authority to get satisfied and file a compounding petition, for the reasons best known, no such steps taken, despite the petitioners producing all the materials. The trial Court is refusing to look into the efforts taken by the petitioners in settling its depositors. The petitioners are business entrepreneur, the business failed and with great difficulty the depositors settled, the petitioners cannot be treated like regular criminals.

3. The Additional Public Prosecutor submitted that, in this case 107 depositors cheated of which only 87 depositors settled, with regard to the 10 others, MOU is produced, now, the same to be verified and with regard to the other 10 persons, they are to be traced. The amount of Rs.11,93,200/- can be deposited before



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the Competent Authority and it is for the Competent Authority to inform, whether all depositors paid and their dues are settled. He further submitted that he has to verify the MOU produced and also with regard to the amount quantified for the balance 10 depositors who are yet to be identified, their whereabouts to be found and dues to be paid.

4. The petitioners have settled substantial number of depositors and after only ten depositors the amount to be paid for them now Demand Draft taken in the name of Competent Authority and to be deposited. Finding force in the submission of the learned counsel for the petitioners, substantial amount already paid by the petitioners and for the rest of the persons, MOU to be verified and for the balance 10 depositors they are to be traced, Demand Draft produced.

5. In view of the same, this Court is inclined to admit the petition, stay the proceedings of the trial Court till the disposal of the above Petition. In the meanwhile, the petitioners have to deposit the Demand Draft to the Competent Authority/District Revenue Officer, Erode, who shall receive the same and credit to C.C.No.3 of 2015 and its Crime No.44 of 2013. 6. Notice to the second respondent returnable by 17.11.2021. Private notice is also permitted.

Post this matter on 17.11.2021."

3.The learned Additional Public Prosecutor appearing for the 1st respondent filed status report and the relevant portion is extracted as follows:-

"1) I humbly submit that I am the first respondent herein and I am well aquatinted with the facts and circumstances of this case and I am filing this counter affidavit.

2) It is humbly submitted that in the above case two charge sheets was filed as mentioned here under

(a) Charge sheet No.1 filed on 18.11.2014 on the basis of the claim of 96 depositors comprising a total amount of Rs.1,26,28,068/- (Rupees one cores twenty six lakhs twenty eight thousand and sixty eight)

b)Charge sheet No.2 filed on 12.07.2016 on the basis of the claim of 11 depositors comprising a total amount of Rs 12,75,500/- (Rupees twelve lakhs seventy five thousand and five hundred).

3)It is humbly submitted that basis of the above said two charge sheets the trial of this case has begun and out of the total number of 120 witnesses, so far 115 witnesses were examined. The accused were filed a petition in CMP.No 2076/21 at the trial court for recall the 3 Investigation officers of PWs 113, 114 and



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115 and the petition was allowed and the case is posted for examination of Investigation officers.

4) It is humbly submitted that so far as the above said two charge sheets the number of the depositors cheated is 107 and the total amount cheated is Rs. 1,39,03,568/- (Rupees one corers thirty nine lakhs three thousand five hundred and sixty eight)

5) It is humbly submitted that though the petitioners claimed that out of 107 depositors the amounts of 87 depositors were settled and they were recalled and settlement was recorded is concerned.

6) It is humbly submitted that the petitioners submitted petition mention as the Company was settled the deposit amount to the depositors and out of 107 depositors, 87 witness(depositors), were recalled and settlement was recorded by the Hon'ble Trial Court and 8 witnesses (depositors) were entered into Memorandum of Understanding with the company and claim amount also settled to the depositors and remaining 12 depositors concerned where about not known, however the petitioners have been taken steps to trace out the depositors to settle the amount and the said amount is ready. It is further submitted that the petitioners are deposit the 12 depositors claim amount to be deposit before the Competent Authority, Erode."

4.He further submitted that out of 107 depositors, 87 depositors were recalled and settled with the deposited amount and their statements were recorded by the trial Court. Further, 8 depositors were entered into the Memorandum of Understanding with the petitioners company and the same has been produced before this Court. The balance 12 depositors' whereabouts is not known and their deposited amount have already deposited with the DRO/Competent Authority, Erode.

5.This Court considered the rival submissions and perused the materials available on record.

6.The petitioner has filed this Quash Petition primarily on the ground that all the depositors were settled of their dues. Only few depositors could not be traced, but their deposited amount has already been deposited with the DRO/Competent Authority, Erode.

7.As per the direction of this Court, the petitioners deposited the balance amount of Rs.11,93,200/- (Rupees eleven lakh ninety three thousand and two hundred only) with the Competent Authority/DRO, Erode. The copy of the demand draft No.006166, Axis Bank, Ayothiyapattinam Branch and the letter of the Competent Authority in Ref.No.28230/2016/C5, dated



11.11.2021 are produced before this Court.

8. In view of Section 5(A) of the Tamil Nadu Protection of Interests of Depositors Act, 1997 that the offence under TNPID Act can be compounded on payment of the entire amount due to the depositors with or without interest and Section 420 IPC is also compoundable offence and in view of the entire amount paid to depositors who claimed the amount, further rest of the depositors amount deposited with the competent authority, this Court is inclined to quash the proceedings in C.C.No.3 of 2015, on the file of the Special Judge, Special Court under Tamil Nadu Protection of Interest of Depositor Act, 1997, Coimbatore, against the petitioners and the same is quashed. Accordingly, this Criminal Original Petition is, accordingly, allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge,
The Special Court for Tamil Nadu Protection of Interest of
Depositor Act, 1997,
Coimbatore.
2. The Inspector of Police,
Economic Offences Wing II Unit,
Erode.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Murugendran, Advocate, S.R.No.6544

Crl.O.P.No.20027 of 2021

AJB(CO)
RGA(23/02/2022)