



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.21146 of 2020
and Crl.M.P.No.8994 of 2020
and

W.M.P.Nos.4618 of 2021 and 24405 of 2020
in W.P.No.13113 of 2017

Crl.O.P.No.21146 of 2020

C.Sumathi

..Petitioner

/versus/

1.The Competent Authority,
District Revenue Officer,
Coimbatore.

2.The State by,
Deputy Superintendent of Police,
EOW II,
Coimbatore.

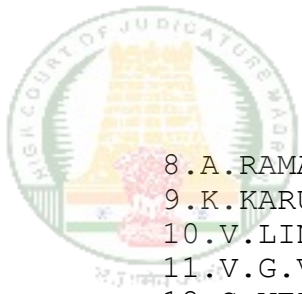
3.S.Muthusamy

4.S.Thirumavalavan ..Respondents
(Impleaded R3 and R4 as per order in
Crl.M.P.No.1610 of 2021 in
Crl.O.P.No.21146 of 2020 dated
25.04.2022)

Prayer: Criminal Original Petition has been filed under
Section 482 of Cr.P.C., praying to direct the Hon'ble Special
Court for TNPID Cases, Coimbatore to receive the compounding
petition filed by the petitioner and to dispose the same in
accordance with law in C.C.No.8 of 2008 pending before the
Hon'ble Special Court for TNPID Cases, Coimbatore.

W.M.P.No.4618 of 2021 in W.P.No.13113 of 2017

1.S.THIRUMAVALAVAN
2.S.MUTHUSAMY
3.K.CHINNASAMY
4.K.KALICHAMY
5.K.SAKTHIVEL
6.S.KRISHNASAMY



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8.A.RAMASAMY
9.K.KARUNTHACHALAM
10.V.LINGAPPAN
11.V.G.VARADHARAJ
12.S.VELUSAMY
13.S.ARUNACHALAM
14.K.RANGASAMY
15.A.CHENNIAPPAN
16.R.KANNAKI
17.S.RANGASAMY
18.K.SAROJINI
19.M.NADARAJ
20.U.R.RANGASAMY
21.S.NATARAJAN
22.T.M.VELUSAMY
23.R.MANI
24.K.V.KANDASAMY
25.K.SARASWATHY
26.K.KUPPUSAMY
27.A.PARVATHI
28.V.S.VELLINGIRI
29.K.DUR AISAMY
30.V.M.JEGADESAN
31.B.KUMAR
32.S.RAMASAMY
33.M.NANDHAKUMAR
34.KURUNTHACHALAM
35.K.RAVICHANDRAN
36.K.KALIAMMAL
37.A.SENGALIAPPAN
38.A.JAYAPRAKASH
39.S.KUPPUSAMY
40.R.SHANMUGAM
41.V.P.RAMASAMY

...Petitioners/Respondent No.3-43 in WP.No.13113/2017

Vs

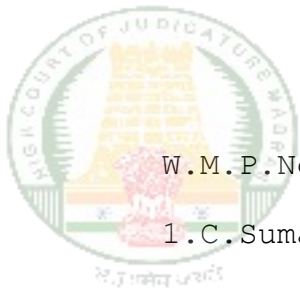
1.C.Sumathi ... Respondent 1/Writ Petitioner

2.The Competent Authority
District Revenue Officer Coimbatore

3.The State rep by
The Deputy Superintendent of Police
Economic Offences Wing-II Coimbatore
... Respondent 2 & 3/Respondent 1 & 2

Prayer:

Pleased to consider the above mentioned facts and clarify the order dated 21.09.2020 made in W.P.Nos.13113/2017 and 26579/2018 and W.M.P.Nos.14008/2017, 30948 and 37227/2018 suitably and thus render justice.



W.M.P.No.24405 of 2020 in W.P.No.13113 of 2017 & 26579/2018:

1.C.Sumathi

... Petitioner/Petitioner in both W.Ps

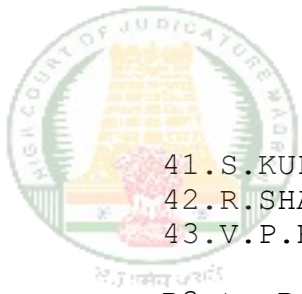
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Vs

1.The Competent Authority
District Revenue Officer Coimbatore

2.The State rep by
The Deputy Superintendent of Police Economic
Offences Wing-II Coimbatore
... Respondents/Respondents 1 & 2 in both W.Ps

3.S.THIRUMAVALAVAN
4.S.MUTHUSAMY
5.K.CHINNASAMY
6.K.KALICHAMY
7.K.SAKTHIVEL
8.S.KRISHNASAMY
9.RAJAMMAL
10.A.RAMASAMY
11.K.KURUNTHACHALAM
12.V.LINGAPPAN
13.V.G.VARADHARAJ
14.S.VELUSAMY
15.S.ARUNACHALAM
16.K.RANAGASAMY
17.A.CHENNIAPPAN
18.R.KANNAKI
19.S.RANGASAMY
20.K.SAROJINI
21.M.NATARAJAN
22.U.R.RANGAAMY
23.S.NATARAJAN
24.T.M.VELUSAMY
25.R.MANI
26.K.V.KANDASAMY
27.K.SARASWATHI
28.K.KUPPUSAMY
29.A.PARVATHI
30.V.S.VELLINGIRI
31.K.DURASAMY
32.V.M.JEGADESAN
33.B.KUMAR
34.S.RAMASAMY
35.M.NANDHAKUMAR
36.KURUNTHACHALAM
37.K.RAVICHANDRAN
38.K.KALIAMMAL
39.A.SENGALIAPPAN
40.A.UJAYAKRASH



41.S.KUPPUSAMY
42.R.SHANMUGAM
43.V.P.RAMASAMY

R3 to R43 impleaded as per order
dated 25.07.2017 in W.M.P.No.17497/2017 in
W.P.No.13113/2017

... Respondents 3-43 in W.P.No.13113/2017

Prayer: Pleased to clarify the Para No.13 of the Common Order in WP.No.13113 of 2017 and 26579 of 2018 dated 21.09.2020 and pass necessary orders which may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.M.Velmurugan

For Respondents : Mr.S.Santhosh,
Government Advocate (Crl.Side)
for R1 and R2

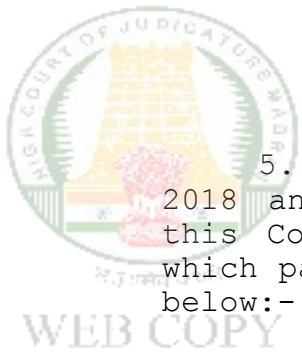
COMMON ORDER

The Criminal Original Petition in Crl.O.P.No.21146 of 2020 has been filed by C.Sumathi, the petitioner/accused No.4 to direct the Hon'ble Special Court for TNPID Cases, Coimbatore to receive the compounding petition filed by the petitioner and to dispose the same in accordance with law in C.C.No.8 of 2008 pending before the Hon'ble Special Court for TNPID Cases, Coimbatore.

2. The Criminal Miscellaneous Petition in Crl.M.P.No.8994 of 2020 in Crl.O.P.No.21146 of 2020 has been filed by C.Sumathi, the petitioner/Accused No.4 to direct the Special Court for TNPID Cases, Coimbatore not to frame charges in C.C.No.8 of 2008 pending disposal of the compounding petition filed by the petitioner/accused.

3. The Criminal Miscellaneous Petition in W.M.P.No.4618 of 2021 in W.P.No.13113 of 2017 has been filed by S.Thirumavalavan and others praying to consider the above mentioned facts and clarify the order dated 21.09.2020 made in W.P.Nos.13113/2017 and 26579/2018 and W.M.P.Nos.14008/2017, 30948 and 37227/2018 suitably.

4. The Criminal Miscellaneous Petition in W.M.P.No.24405 of 2020 in W.P.No.13113 of 2017 has been filed by C.Sumathi the petitioner/Accused No.4 praying to clarify para No.13 of the Common Order in W.P.No.13113 of 2017 and 26579 of 2018, dated 21.09.2020.



5. By Common order in W.P.No.13113 of 2017 and 26579 of 2018 and W.M.P.nos.14008 of 2017, 30948 and 37227 of 2018, this Court disposed of the batch of cases on 21.09.2020 in which paragraph No.13 , which sought to be clarified, reads as below:-

"13.Thus, it is made clear that since the request of the petitioner dated 16.10.2017 made to the competent authority itself is only for settling the dues to the depositors and for closing the issue and the principal amount of the 54 depositors are directed to be settled, there is no impediment for the competent Court to proceed with the case pending before it. However, it is also made clear that if the settlement is made, it is for the petitioner to take out appropriate application for compounding the offence, which shall be dealt with by the Special Court in accordance with law."

6. The clarification to this paragraph is sought, because, when the petitioner herein sought for compounding the offence by invoking Section 5A(1) of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, the same was opposed by few depositors and the trial Court was not able to consider the said request. Out of 54 unsettled creditors, some of them were demanding interest for their investment along with the principal.

7. Pending petitions for clarification filed by C.Sumathi, the petitioner/accused No.4, the investors by name S.Thirumavalavan and Muthusamy filed a Writ Miscellaneous Petition in W.P.No.13113 of 2017 which was numbered as W.M.P.No.4618 of 2021, wherein they sought for clarification/modification in the order dated 21.09.2020 made in W.P.Nos.13113 of 2017 and 26579 of 2018 and W.M.P.Nos.14008/2017, 30948 and 37227 of 2018, which is the common order passed by this Court. Also, another petition in CrI.M.P.No.1610 of 2021 in CrI.O.P.No.21146 of 2020 has been filed by S.Muthusamy and S.Thirumavalavan, wherein he and on behalf of Thirumavalavan has taken out a petition to get themselves impleaded in CrI.O.P.No.21146 of 2020 expressing their stand that they are not ready for compounding the offence, unless they are paid the interest along with principal.

8. In such circumstances, clarification is sought both by the accused and few depositors in the above petitions. In addition, the accused also seeks for a direction to the trial Court to receive the compounding petition.

9. Whether non-payment of interest component will be a bar (or) impediment to invoke Section 5A of the Tamil Nadu



Protection of Interests of Depositors (In Financial Establishments) Act, 1997 is the actual point in dispute between the accused and the depositors.

10. This Court by its earlier order directed the learned Government Advocate (Crl.Side) to file Status Report of the case so that it will be appropriate for this Court to pass a composite order on these petitions. Accordingly, the learned Government Advocate (Crl.Side) filed a Status Report and gist of the Status Report is that out of 128 creditors, the petitioner herein has already settled full in respect of 74 creditors and the offence has been compounded. Remaining 54 creditors, some of them are demanding interest in addition to the principal amount and the money available with District Revenue Officer could not be disbursed, in view of the petitions, pending before the High Court.

11. The Statement indicates that presently, approximately a sum of Rs.3.25 crores is available which was deposited in the interest bearing account and renewed periodically. This money is readily available for disbursement to the creditors.

12. As far as unpaid 54 creditors, a sum payable towards principal is Rs.2,19,90,500/-. The interest component if calculated at the rate of 18% from the date of deposit till today will be Rs.8,84,40,000/- (Approximately Rs.9 crores).

13. The depositors who claim interest for their investment alleges that the accused persons have 12 other valuable properties and the same can be liquidated to pay the interest. Whether to compound the offence by paying the principal with or without interest is an option given to the parties under Section 5 A of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997.

14. Hence, to proceed with and remove the statement for invoking Section 5A of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, it is suffice to direct the District Revenue Officer/Competent Authority to initially disburse the principal amount payable to the remaining 54 depositors without prejudice to their claim of interest and report the same to the trial Court. On receipt of such report, the trial Court shall proceed further, taking note of Section 5A of the Tamil Nadu Protection of Interests 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 after the institution of the prosecution, be compounded by the Competent Authority with



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the permission of the Special Court, on payment of the entire amount due to the depositors with or without interest. (Emphasis added)

(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].

The District Revenue Officer/Competent Authority is also directed to complete the said process, within a period of 45 days from the date of receipt of a copy of this order. The trial Court shall not proceed further, till the receipt of the report from the District Revenue Officer regarding the disbursement of the principal to the unpaid depositors.

15. Thus, it is clarified that the amount available with the District Revenue Officer has to be disbursed to the unpaid creditors to discharge the principal amount which has been deposited with the accused. It is open to the depositors to be satisfied with the principal and compounding the offence or seek interest. It is for the trial Court to decide about the entitlement/legality for the claim of interest and decide the petition for compounding the offence.

16. With the above observation and directions:

- CrI.O.P.No.21146 of 2020 and CrI.M.P.No.8994 of 2020 are disposed of.
- W.M.P.Nos.4618 of 2021 and 24405 of 2020 in W.P.No.13113 of 2017 are disposed of. No order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Court for TNPID Cases,
Coimbatore.

2.The Competent Authority,
<https://hcservices.ecourts.gov.in/hcservices/>
District Revenue Officer, Coimbatore.



3.The Deputy Superintendent of Police,
EOW II, Coimbatore.

Copy to:

The Section Officer,
Writ Section,
High Court,
Chennai.

+1cc to Mr.P.P.Shanmugasundram, Advocate SR. No.28285

+1cc to Mr.M.Velmurugan, Advocate SR. No. 29039

Crl.O.P.No.21146 of 2020
& Crl.M.P.No.8994 of 2020
and

W.M.P.Nos.4618 of 2021 and 24405 of 2020
in W.P.No.13113 of 2017

SKM (CO)
PR (18/05/2022)