

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.25064 of 2021 and
CrI.M.P.No.13796 of 2021

Mrs.Madhumathi

... Petitioner

Versus

The State Rep. By:-
Inspector of Police,
Economic Offences Wing-II,
Erode.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records of the order dated 22.10.2021 made in CrI.M.P.No.1990 of 2021 in C.C.No.20 of 2012 on the file of learned Special Judge, Special Court under TNPID Act, Coimbatore and set-aside the same.

For Petitioner : Mr.A.Saranraj

For Respondents: Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

The Petitioner/A3 in C.C.No.20 of 2012 facing trial for the offences punishable under Sections 120 (b), 420 of I.P.C. and Section 5 of TNPID Act, 1997 has filed the petition under Section 311 Cr.P.C. before the trial Court in C.M.P.No.1990 of 2021 and the trial Court by order dated 22.10.2021 dismissed the same, against which the present petition has been filed.

2.The contention of the learned counsel appearing for the petitioner is that due to sudden death of her husband on 26.03.2013 the petitioner was unable to communicate properly to her counsel and hence could not cross examine the witnesses. For this reason, the petitioner has filed a petition under Section 311 Cr.P.C. to recall and permit the petitioner to cross examine the 33 persons, the same was dismissed. He further submitted that the trial Court failed to give reason why the

petitioner's right of cross examination to be denied. He further submitted that the trial Court citing the reason of delay, dismissed the petition thereby denying the right of petitioner to cross examine the witnesses. He further submitted that to put forth his defense the petitioner has to necessarily cross examine the witness.

3. The learned Additional Public Prosecutor submitted that in this case there are six accused and A1 to A5 conspired together canvassed and projected schemes, collected deposits from the general public in the name of A1 with an intention to cheat, thereby cheated the depositors to the tune of Rs.7,54,88,500/- from 327 depositors, the petitioner along with her husband looked after the day to day affairs of the accused-A1 firm. He further submitted that in this case since 2013 witnesses were examined, prosecution evidence is to be closed till this date the accused not settled even a single depositor. He further submitted that the witnesses sought to be examined were examined from 2013 to 2020 on various dates, despite several opportunities given the petitioner not chosen to cross examine the witnesses and purposely filed the petition under Section 311 Cr.P.C., belatedly to further drag on the proceedings. He further submitted that for the past seven years for what reason, no steps taken, no explanation given. He further submitted that the Trial Court order is a well reasoned and detail order, needs no interference, hence prayed for dismissal of this petition. He has also produced the list showing on which date the witnesses examined in this case.

4. From the perusal of the list produced by the learned Additional Public Prosecutor, it is seen that P.W.1 to P.W.14 examined during 2013, during 2014 no witnesses examined. In the year 2015, one witness Sudhakar was examined. Thereafter, for two years no witnesses were examined and in the year 2018, five witnesses examined, in the year 2019 no witness was examined and in the year 2020 four witnesses were examined and finally in the year 2021 four witnesses who are investigating officers were examined . Thus the accused have been successfully dragging on the proceedings and delayed the examination of witness by giving hope that steps are taken to settle the depositors, hence gained time, finally till date not even one depositors settled.

5. Considering the submissions made on either side and on a perusal of the impugned order, it is seen that no reason given for not cross examining the witnesses from 2013, the occurrence took place in the year 2012, no steps taken till date to settle the victims, this Court is of the view that the trial Court has rightly dismissed the petition filed under Section 313 Cr.p.c. and hence the same does not warrant interference.

6. In view of the same, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

arr

To

1. The Inspector of Police,
Economic Offences Wing-II,
Erode.
2. The Special Judge,
Special Court under TNPID Act, Coimbatore
3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.25064 of 2021

PL(CO)
GMY(17/02/2022)