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Crl.O.P.No.26095 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.10.2022

PRONOUNCED ON : 16.11.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.26095 of 2022

and

Crl.M.P.No.16086 of 2022

1. M/s. White Collar Associates,
rep. by its Proprietor G.Sivakumar
No.1956-B, Madha Complex,
Om Sakthi Nagar,
Ramanathapuram,
Coimbatore- 641 045.

2. G.Sivakumar

... Petitioners

/vs/

The State rep. by
Deputy Superintendent of Police,
E.O.W.II, Coimbatore,
Cr.No.5 of 2018

... Respondent



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Prayer : This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to modify the order "*petitioners shall deposit 25% of deposit amount before the trial Court on or before 11.10.2022*" in Crl.M.P.No.1563 of 2022 in C.C.No.6 of 2022, dated 14.11.2022 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.

For Petitioner	...	Mr. L.Charles Premkumar
For Respondents	...	Mr. S.Santhosh Gov. Advocate (Crl.side)

ORDER

In this Criminal Original petition, the petitioner challenged the impugned order in Crl.M.P.No.1563 of 2022 in C.C.No.6 of 2022, dated 14.11.2022 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.

2. The learned counsel appearing for the petitioners submitted that the petitioners are arrayed as A1 and A2 in C.C.No.6 of 2022 on the file of the Special Court under TNPID Act, Coimbatore. In this case, the prosecution examined P.W.1 to P.W.9 and at that time, the petitioners were



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not able to cross examine the above said witnesses. Hence, they filed an application in Cr.M.P.No.1563 of 2022 under Section 311 of Cr.P.C for recalling the above said witnesses for cross examination. The Trial Court, while allowing the petition, imposed a condition that the petitioners/A1 and A2 shall deposit 25 % of the deposit amount. The said condition imposed by the Trial Court is onerous one. Earlier, while granting bail also, the petitioners have deposited some amount. Under these circumstances, depositing of 25% of the deposit amount, for recalling the prosecution witnesses, is unsustainable, and seeking to set aside the condition imposed by the Trial Court.

3. The learned Government Advocate (crl. side) submitted that the petitioners are arrayed as A1 and A2 in C.C.No.6 of 2022 on the file of the Special Court under TNPID Act, Coimbatore. The petitioners have received amounts by way of deposits from various persons, but not repaid the same as promised. Hence, the depositors gave a complaint against the petitioners. Upon that complaint, the respondent police, has registered a case in Crime No.5 of 2018 and after investigation, filed a final report for



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the offences punishable under Sections 120(b), 420 of IPC and 5 of Tamil Nadu Protection of Interest of Depositors (in Financial Establishment)

Act 1997. In this case, P.W.1 to P.W.9 were examined by the prosecution. He further submitted that though sufficient opportunity has been given to the petitioners for cross examination of the prosecution witnesses, they have not cross examined the witnesses. Later, only in order to protract the prosecution case, they filed the petition under Section 311 of Cr.P.C. to recall P.W.1 to P.W.9. Since many people lost their deposits, the Trial Court, while permitting to recall P.W.1 to P.W.9 for the purpose of cross examination, imposed a condition on the petitioners that they shall deposit 25% of the deposit amount, which is not unreasonable and thus, pleaded to dismiss the petition.

4. I have considered the matter in the light of the submissions made by the learned counsel for both the parties and perused the materials available on records carefully.



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5. On a perusal of the records, the fact reveals that the petitioners are arrayed as A1 and A2 in C.C.No.6 of 2022 on the file of the Special Court under TNPID Act, Coimbatore. The respondent police prosecuted the petitioners and others for having committed the offence of collecting deposits from various depositors and the same was not repaid as promised. Hence, the petitioners and others committed the offences punishable under Sections 120-B, 420 of IPC and Section 5 of TNPID Act, 1997. In order to prove the prosecution, on 24.08.2022, P.W.1 to P.W.5 and on 25.08.2022, P.W.6 to P.W.9 were examined. Further, the record reveals that the petitioners have not cross examined the prosecution witnesses on the same day and belatedly, filed an application in Crl.M.P.No.1563 of 2022 in C.C.No.6 of 2022 under Section 311 Cr.P.C. for recalling the above said witnesses for the purpose of cross examination. The Trial Court, in order to give a fair chance to the accused, to meet the prosecution and to place its defence, allowed the said application with a condition that the petitioners shall deposit 25 % of deposit amount only for the interest of the



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depositors. Therefore, I find no good reason to interfere with the order passed by the Trial Court. I find no merit in this petition and hence, this petition is liable to be dismissed.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

16.11.2022

mrp

Index : yes/no

Internet ; Yes/no

To

1. The Special Judge,
Special Court under TNPID Act,
Coimbatore.
2. The Deputy Superintendent of Police,
E.O.W.II, Coimbatore.
3. The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

mrp

Pre-Delivery Order
in
Crl.O.P.No.26095 of 2022

16.11.2022