



Crl.O.P.No.25784 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.No.25784 of 2022 and
Crl.M.P.No.15962 of 2022

Promox Emu Farms Pvt. Limited
The Proprietor Mr.V.Muthukumar
s/o Velliappan Periyasami,
No.4/54A Sedapatti, Arurpatti Post,
Salem 636 502.

... Petitioner

Vs.

The State rep. by
The Deputy Superintendent of Police,
Economic Offence Wing-II, Salem.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 22.09.2022 passed by the Special Judge in Special Court under TNPID Act, Coimbatore in CMP No.1521 of 2022 in C.C.No.08 of 2015.

For Petitioner : Mr.C.D.Johnson

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



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ORDER

This Criminal Original Petition has been filed to set aside the order dated 22.09.2022 passed by the Special Judge in Special Court under TNPID Act, Coimbatore in CMP No.1521 of 2022 in C.C.No.08 of 2015.

2. The learned counsel for the Petitioner submitted that the petitioner is the second accused in C.C.No.8/2015 and in that case, already 58 witnesses have been examined on the side of the prosecution. He further submitted that, out of 58 witnesses, 47 prosecution witnesses cum depositors have agreed during the cross examination that they have received the entire deposited amount and hence there is no need to take action against the petitioner and the company. Subsequently, while the case was posted for arguments, the prosecution side made some allegations against one Thangaraj, who was the then Investigating Officer, appeared before the Trial Court on behalf of prosecution, alleging that the depositors were not paid the entire amount and hence, filed a petition in Crl.M.P.No.1521 of 2022 in C.C.No.8 of 2015 to recall PW1 to PW25, PW27, PW29 to PW31 to elucidate the above facts. The above petition was allowed by the Trial Court and the above order is



impugned herein.

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3. The learned counsel further submitted that once the witnesses were examined and cross examination is over, again recalling the witnesses for cross examination should not be allowed, since it amounts to denovo Trial. He further submitted that, if the witnesses are allowed for further cross examination, the accused will loose his right and he will be prejudiced seriously. Hence, the order passed by the Trial Court is liable to be dismissed.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the case is now posted for further cross examination of the witnesses.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and I have perused the materials on record.

6. Admittedly, the petitioner is the second accused in C.C.No.8 of 2015 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.



The respondent police prosecuted the case against the petitioner along with other accused for the charges under Sections 120B, 468, 471, 419 and 420 IPC and Section 5 of TNPID Act, 1997. A perusal of the records shows that, sofar, 58 witnesses have been examined on the prosecution side. It is the contention of the petitioner that, while deposing evidence, the witnesses agreed that they have received entire deposited amount and hence, criminal case need not be proceeded against the petitioner. But, the impugned order of the Trial Court reveals that, during further examination of PW26 and PW32, as per order in Crl.M.P.No.2612 of 2021, it came to light that the deposited amount would be given, if they deposed that they have received entire amount, but they received only meager amount, out of deposited amount. It is further deposed by them that, one Thangaraj, who was then Police Officer, representing E.O.W.-II Salem said that, the remaining amount would be given on next appearance, but they did not pay the remaining deposited amount. Subsequently, PW26 and PW32 were paid their respective claims and full satisfaction was recorded.

7. It is the case of the prosecution before the Trial Court that, now the



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PW1, 4, 6, 27, 30, 35 and 42 have lodged a complaint before the Deputy Superintendent of Police, E.O.W.-II, Salem, stating the same allegations against the accused and Thangaraj that, they have not received the entire deposited amount and received only meagre amount and hence, wanted to recall the Prosecution Witnesses for further cross examination. But the petitioner/accused objected for recall the witnesses and argued that, if the above said witnesses have lodged a fresh complaint against the accused and Thangaraj, the same should be dealt separately, as such, it is not fair to reopen the prosecution case.

8. After perusing the records and upon hearing the arguments putforth by the learned counsel on either side, the Trial Court came to the conclusion that no prejudice will be caused to the respondents/accused persons, in view of the further examination of those witnesses. Therefore, in order to bring out the truth before the Court, the witnesses have to be recalled for further cross examination and the Trial Court has rightly allowed the petition. If the witnesses gave contradictory evidence, the petitioner may take it as advantage to prove his defence case. Hence, this Court do not find any infirmity in the



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order passed by the Trial Court and it does not warrant any interference by this Court.

9. Accordingly, this Criminal Original Petition is dismissed.

26.10.2022

Index:Yes/No
mst

To:

1. The Special Judge under TNPID Act,
Coimbatore.
2. The Deputy Superintendent of Police,
Economic Offence Wing-II, Salem
3. The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM, J.

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