



CrI.O.P.No.30023 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.30023 of 2022

Samiyathal

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Economic Offences Wing,
Erode.

... Respondent

PRAYER: This Criminal Original Petition filed under Section 407 of Cr.P.C. to call for and set aside the order dated 27.10.2022 made in C.M.P.No.1909 of 2022 in C.C.No.5 of 2012 on the file of the learned Special Judge, Special Court under TNPID ACT, Coimbatore by allowing the Criminal Original Petition and issue direction to respondent police to take appropriate action to remove the entries from the encumbrance of the Sub Registrar's Office.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.S.Santhosh

Government Advocate (Criminal side)



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ORDER

This Criminal Original Petition has been filed seeking to set aside the order dated 27.10.2022 made in C.M.P.No.1909 of 2022 in C.C.No.15 of 2012 on the file of the learned Special Judge, Special Court under TNPID ACT, Coimbatore by allowing the Criminal Original Petition and issue direction to respondent police to take appropriate action to remove the entries from the encumbrance of the Sub Registrar's Office.

2.The petitioner along with other accused were prosecuted in C.C.No.15 of 2012 on the file of the learned Special Judge, Special Court under TNPID ACT, Coimbatore. The trial Court convicted all the accused. Against the said judgment, the petitioner and other accused filed Crl.A.No.490 of 2022 and Crl.A.No.492 of 2022.

3. This Court on 13.06.2022, through a common judgment, allowed both the Criminal Appeals with the following terms:



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(i) The factum as to the settlement of the entire amount to all the 62 depositors involved in this case is recorded and the offences are compounded under Section 5A of the TNPID Act.

(ii) The conviction and sentence including the fine imposed by the learned Special Judge, Special Court under the TNPID Act, Coimbatore by Judgment dated 05.04.2022 in C.C.No.15 of 2012 is set aside;

(iii) Criminal Appeals are allowed accordingly. Consequently, the connected miscellaneous petitions are closed.

(iv) The amounts which were already paid and pending with the Competent Authority is directed to be disbursed to the depositors in accordance with law and at no point of time the appellants will be entitled to make any claim of the amounts deposited by them in any manner.

4. Now, it is seen that the accused were acquitted and the depositors were paid the amount. The grievance of the petitioner is that the Deputy Superintendent of Police (Economic Offences Wing), Erode, sent a communication to the Sub-Registrar, Peruthurai to prohibit the alienations in respect of the property of the petitioner's daughter in Survey No.48/1 and 48/2 situated at Perundurai, Village. Thereafter, the petitioner filed a petition in



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Crl.M.P.No.1909 of 2022 before the learned Special Judge, Special Court under
TNPID Act, Coimbatore to lift the restraint order.

5. The order of the learned Special Court under TNPID Act, Coimbatore states that the real owner of the property is admittedly the daughter of the petitioner. Since the daughter of the petitioner had not filed the application, the petition filed by the petitioner is not maintainable. It is also observed that the police do not have power to attach the property during investigation as it can lead to misuse of power. Despite stating this reason, the learned Judge proceeds to dismiss the petition with a direction to approach the Civil Court or this Court.

6. This Court is of the view that the approach of of the learned Judge is not correct and in accordance with law, for the reason that the accused in C.C.No.15 of 2012 have already been acquitted by the judgment in Crl.A.No.490 of 2022 and Crl.A.No.492 of 2022, which was passed by this Court. Further the depositors have been settled and hence, it is not appropriate for the Deputy Superintendent of Police (Economic Offences Wing), Erode, to attach the property of petitioner's daughter. Hence, the order passed by the



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learned Special Judge, Special Court under TNPID Act, Coimbatore in
Crl.M.P.No.1909 of 2022 is set aside and the respondent is directed to take
appropriate steps to remove the entries from the encumbrance of Sub
Registrar's Office.

7. Accordingly, this Criminal Original Petition is allowed.

06.12.2022

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Index:Yes/No

Speaking/Non speaking order

To

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

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G.CHANDRASEKHARAN.J.,

Sma

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