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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday,the Twenty Seventh day of July Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL A(MD) No.217 of 2022
IN
CRL MP(MD)No.3499 of 2022

V.SRINIVASAN ... APPELLANT/6th RESPONDENT /THIRD PARTY

Vs

1 RAMU ...1st RESPONDENT/PETITIONER / WITNESS NO.738

2 THE DISTRICT REVENUE OFFICER
VIRUDHUNAGAR DISTRICT.

3 THE INSPECTOR OF POLICE
ECONOMIC OFFENCES WING IV,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT. ...RESPONDENTS 2 & 3/ RESPONDENTS 1&2 / COMPLAINANTS

4 M/S VIRUTHAM AGRO LIMITED
DOOR NO. 9A, HINDU NADAR JAVULI,
MERCHANTS ASSOCIATION BUILDING,
SIVAKASI, VIRUDHUNAGAR DISTRICT
REP BY ITS MANAGING DIRECTOR,
SRINIVASAN @ SRINIVASAGAN

5 M/S KARPAGA VIRUTCHAM ASSET PROMOTERS PRIVATE LIMITED,
DOOR NO. 142-B, GR COMPLEX, PACR ROAD,
SRIRANGA PALAYAM,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
REP BY MANAGING DIRECTOR,
SRINIVASAN @ SRINIVASAGAN

R.SRINIVASAN(DIED)

6 R.KANNAN

7 P.RAMESH

8 P.RAMASAMY

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9 A.KAMALA ... RESPONDENTS 4 TO 9/ RESPONDENTS 3 TO 5 & 7 TO 10 / THIRD PARTY 7 TO 10

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to call for records and set aside the order dated 26/02/2020 passed in O.S.No.17 of 2019 in C.C.No.21 of 2017 on the file of the Hon'ble Special Court under the Tamilnadu Protection of Interest of depositors (in Financial Establishment) Act, 1997, Madurai.

Prayer in CRL MP(MD). 3499/ 2022 :

C-60. To Stay all further proccedings order dt. 26.02.2021 in O.S No. 17 of 2019 in C.C No. 21 of 2017 on the file of the Honble Special court under the TNPID (In Financial Establishment) Act 1997, Madurai pending disposal of the above appeal

Order : This appeal coming up for orders on this day, upon perusing the appeal filed in support thereof and upon hearing the arguments of MR.K.VINOHARAN, Advocate for the appellant and of MR.M.SURESH,Advocate for the 1st Respondent and MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondents 2 & 3, the court made the following order:-

RESERVED ON:20.07.2022

PRONOUNCED ON:27.07.2022

This Criminal Appeal has been directed against the order passed in O.A.No.17 of 2019, in C.C.No.21 of 2017, dated 26.02.2020, on the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 (TNPID Act) cases.

2. One of the witness by name Ramu has filed a petition under Section 8 of TNPID Act seeking orders for attachment of the schedule properties. The official respondents as well as some of the accused have filed counter statements.

3. The learned Special Judge, after conducting enquiry, has passed the impugned order dated 26.02.2020 allowing the suit and ordered attachment of 6 items of properties. The sixth respondent in O.S.No.17 of 2019, who is a third party, aggrieved by the said order, has preferred the present appeal.

4. When the matter was taken up for hearing, the learned Additional Public Prosecutor appearing for the official respondents has raised objections with regard to the very maintainability of the Criminal Appeal. The learned Additional Public Prosecutor would submit that the Criminal Appeal is not maintainable and Civil Appeal alone is to be filed under Section 11 of TANPID Act.

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5. No doubt, it is settled position of law that the orders passed by the Special Court under Section 7 to 10 of TNPID Act can be challenged by way of filing an appeal under Section 11 of TNPID Act. At this juncture, it is necessary to refer the decision of the Division Bench of this Court in ***G.Sheik Mohaideen Vs. S.Deivendran,*** passed in ***Crl.R.C.(MD)No.841 of 2011, dated 07.06.2018*** and the Hon'ble Division Bench, while answering reference, has specifically held as follows:

> "25 In fine, we hold that:
>
> *a Special Court constituted under the TNPID Act is not a Court of Magistrate. The Presiding Officer of the Special Court can only be a person of the cadre of a District and Sessions Judge. As a sequitur, we hold that appeals from judgments of convictions or acquittals passed by a Special Court under the TNPID Act would lie to the High Court under Chapter XXIX Cr.P.C., irrespective of the quantum of sentence.*
>
> *An appeal under Section 11 of the TNPID Act is confined to the orders passed by the Special Court under Sections 7 to 10 of the TNPID Act and under the Code of Civil Procedure, 1908 and will not include judgments of convictions or acquittals.*
>
> *The law laid down in Antony and others vs. The State reported in 2011 2 L.W.(Crl.) 298, to the extent that it is inconsistent with the law laid down herein, will stand overruled."*

6. At this juncture, the learned Counsel for the appellant would fairly concede that the Criminal Appeal is not maintainable and would submit that the papers may be returned, so as to enable the appellant to file a Civil Appeal under Section 11 of TNPID Act before this Court.

7. Considering the above, this Court has no hesitation to hold that the Criminal Appeal now filed is not maintainable and hence, the Registry is directed to return the papers so as to enable the appellant to file the same before the appropriate Forum. It is also clarified that the appellant is entitled to exclude the time spent in the present proceedings, while calculating the limitation period for filing the civil appeal under the TNPID Act.

sd/-
27/07/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE SPECIAL JUDGE,
UNDER THE TAMILNADU PROTECTION OF INTEREST
OF DEPOSITORS (IN FINANCIAL ESTABLISHMENT)
ACT, 1997, MADURAI.

2 THE DISTRICT REVENUE OFFICER
VIRUDHUNAGAR DISTRICT.

3 THE INSPECTOR OF POLICE
ECONOMIC OFFENCES WING IV,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADRUAI.

+1. C.C. to M/S. PRABHU RAJADURAI. G Advocate SR.No.34292(F)

ORDER
IN
CRL A(MD) No.217 of 2022
IN
CRL MP(MD)No.3499 of 2022
Date :27/07/2022

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PKP/PN/SAR-4/28.07.2022/4P/6C

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