



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 23/11/2022

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.RC(MD)Nos.1104 and 1122 of 2022
and
Cr1.MP(MD)Nos.14011 and 14215 of 2022

(1)Cr1.RC(MD)No.1104 of 2022:-

N.Hilda : Petitioner/Petitioner/
Accused No.2.

Vs.

1.The State of Tamil Nadu
represented by the Deputy Superintendent of Police,
Economic Offences Wing-II,
Kanyakumari District at
Nagercoil.

2.The Competent Authority-cum-
District Revenue Officer,
Kanyakumari District at
Nagercoil. : Respondent/Respondent/
Complainant

PRAYER:- This Revision has been filed under
section 397 r/w 401 of the Criminal Procedure Code
against the order passed in Cr.M.P No.59 of 2022, dated
23/04/2022 in CC No.15 of 2015 on the file of the Special
Court for TNPID Act, Madurai.



(2) Cr1.RC(MD) No.1122 of 2022:-

WEB COPY

N.Hilda : Petitioner/Petitioner/
Accused No.2.

Vs.

1.The State of Tamil Nadu
represented by the Deputy Superintendent of Police,
Economic Offences Wing-II,
Kanyakumari District at
Nagercoil.

2.The Competent Authority-cum-
District Revenue Officer,
Kanyakumari District at
Nagercoil. : Respondent/Respondent/
Complainant

PRAYER:- This Revision has been filed under
section 397 r/w 401 of the Criminal Procedure Code
against the order passed in Cr.MP No.58 of 2022, dated
23/04/2022 in CC No.14 of 2015 on the file of the Special
Court for TNPID Act, Madurai.

For Petitioner : Mr.P.M.Vishnuvarthanan
(in both cases)

For Respondents : Mr.S.Ravi
(in both cases) Additional Public Prosecutor

**COMMON ORDER**

WEB COPY

These criminal revisions have been filed against the order passed in Cr.MP Nos.58 and 59 of 2022, dated 23/04/2022 in CC Nos.14 and 15 of 2015 on the file of the Special Court for TNPID Act, Madurai.

2.The facts in brief:-

The revision petitioner is facing the charges under sections 406, 420 r/w 120(b) IPC and section 5 of TNPID Act before the Special court in two cases. Both the cases were taken on file by the trial court in CC Nos.14 and 15 of 2015. After seven years of the trial process, petition has been filed by the petitioner/A2 under section 5(A) of TANPID Act seeking permission of the court to compound the offence on the ground that during the course of investigation, repayments that have been made by him were not properly taken into account by the Investigating Officer. Apart from that, his entire property was attached in O.A Nos.2, 8, and 9 of 2017 under sections 4(3) and 7(7) of TNPID Act, 1997. As per the Government Order in G.O Nos.890, 118, 164 and 170, dated 20/10/2017, totally eight properties have been attached, in pursuance of the above said order.



3. Apart from that, jewels worth about 2001.9 grams were also lying in Muthoot Finance Limited. So the jewels alone still worth about Rs.1,95,94,050/-. That jewels were also under attachment in O.A No.9 of 2015. Similarly, omnibuses were also attached in O.A No.8 of 2015, worth about more than Rs.50,00,000/-. Totally, four cases have been registered against the petitioner. Out of the above said four cases, the entire amount is involved in CC Nos.14 and 15 of 2015 was settled in full and so that cases were also disposed of. Now two cases are pending before the court. So according to him, total outstanding amount in respect of the above said two cases is Rs.6,08,26,300/-. But the property, which was under attachment is worth more than Rs.12,00,00,000/- as per the present market value. So with the above said, he filed the above said petitions seeking permission to compound the offence.

4. That was resisted by the prosecution stating that the value that was mentioned in the petitions must be proved by the petitioner. Apart from that, it has been stated that the petitioner is not the *bona-fide* person. It has been stated that he purchased the property in



survey No.165/1B in Mettamalai Village, Sathur Taluk, Virudhu Nagar District in 2013 and later, sold the same, on 22/02/2021. Six cases have been registered in 2018 and eight years have been lapsed. Now after examination of the witnesses are over, the cases have been posted for argument. At this stage, these petitions have been filed. Totally, 660 innocent depositors are involved. After considering the petitions and objections, the trial court dismissed the same, by order, dated 23/04/2022 stating that now argument is going to be heard and the petitioner not deposited Rs.1,35,30,000/- and Rs.3,15,31,000/- to show his *bona fide*. So on that ground, the above said petitions were dismissed.

5.Now these revisions have been filed on the ground that no reason was assigned by the Special Court for rejecting the request; The trial Judge has posted the case on day today basis; without giving opportunity to the complainant, the order was passed in Crl.M.P No.64 of 2022 in CC No.13 of 2015. The next allegation is that the trial court ought to have granted sufficient and reasonable time to appeal the above said order.



6.Heard both sides.

WEB COPY

7.The learned counsel appearing for the revision petitioner by pointing out a direction issued by this court in WP(MD)No.10380 of 2021 would submit that the revaluation was not done as directed by this court; That writ petition was filed challenging the sale notice that was issued in respect of the property, which belongs to the revision petitioner on the ground that it was undervalued. In the sale notice, the number of stories that are available was not properly mentioned. On that ground, the above said liberty was granted to the petitioner to vindicate his grievance before the trial court by way of filing proper petition.

8.The learned Additional Public Prosecutor has pointed out that the evidence was closed as earlier as on 10/03/2022 itself and thereafter, the case was listed for argument; in spite of repeated adjournments, the revision petitioner did not appear, so NBW was issued. It is further submitted that totally, 336 witnesses were examined; Even though, a direction was given by the trial court to deposit Rs.2,00,000/, that was not complied by the revision petitioner.



9. But the records are not available with regard to the above said point. Similarly, whether any petition has been filed before the concerned court seeking revaluation of the property is also not clear on record.

10. Now whatever it may be, a short point which arises for consideration in this revision is whether the application filed under section 5A of the Act ought to have been allowed by the trial court. The reason for such a petition is that the value of the property is more than, what is mentioned in the final report.

11. But the learned Additional Public Prosecutor would submit that the above said proceedings are entirely different from the criminal proceedings and only auction sale will be undertaken, by pointing out the attachment order, the revision petitioner can not stall the criminal proceedings. So according to the learned Additional Public Prosecutor, the request made by the petitioner is not bona fide one. Apart from that, because of his absence, NBW has been issued. So the revision itself is not maintainable.



12. In the grounds of revision, some sort of allegations have been made against the Presiding Officer stating that he is posting the case on day today basis. The reason is very obvious. The crime is of the year 2012 and the case has been registered in 2015. Now we are in 2022. So it squarely covered under the category of 7 years old matter, which must be undertaken on day today basis as per the circular issued. So no fault can be found by the petitioner with the Presiding Officer and trial process. Absolutely, this sort of argument is misplaced and cannot be appreciated.

13. It appears that at the fag end of the trial process, this petition has been filed. He ought to have filed the petition at the earliest point of time. Having waited for seven long years, at the concluding stage of the trial process, this petition has been filed stating that the valuation of the property and attachment is more than the amount involved in the above said three cases. Such sort of contention cannot be taken into account at this stage.



14. For better appreciation, section 5A of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 is extracted hereunder:-

“5A.Compounding of offence.- (1)

An offence punishable under section 5 may, before the institution of the prosecution, be compounded by the Competent authority or after the institution of the prosecution, be compounded by the Competent authority with the permission of the Special Court, on payment of the entire amount due to the depositors with or without interest.

(2) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken or continued against the offender, in respect of the offence so compounded and the offender, if in custody shall be discharged forthwith.”

So the above said provision makes it clear that for purpose of making compromise, condition precedent is deposit of the amount.



15. But here, the revision petitioner wants to replace the order of deposit by evaluation of the property under attachment. In short, the idea of the revision petitioner is that he must be permitted to put forth his valuation of the property instead of depositing the amount. Such a contention cannot be accepted.

16. The attachment and sale proceeds are entirely different from the criminal prosecution. The compounding of criminal prosecution is permitted only on the condition of deposit of the amount. Attachment proceedings cannot be equated with that of the order of depositing money. Both are not mutually exclusive of each other. So the above contention is liable to be rejected outright and accordingly, it is rejected.

17. I find no bona-fideness in both the revisions. As such, I find no reason to interfere with the impugned order passed by the trial court.



WEB COPY

18. In the result, both criminal revisions are **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

23/11/2022

Index:Yes/No
Internet:Yes/No

er

To,

1. The Special Court for TNPID Act cases,
Madurai.
2. The Deputy Superintendent of Police,
Economic Offences Wing-II,
Kanyakumari District @
Nagercoil.
3. The Competent Authority-cum-
District Revenue Officer,
Kanyakumari District @
Nagercoil.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



12

G.ILANGOVA, J

er

Cr1.RC(MD) Nos.1104 and 1122 of 2022
and
Cr1.MP(MD) Nos.14011 and 14215 of 2022

23/11/2022