



Crl.O.P.No.5581 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.5581 of 2021

and

Crl.M.P.Nos.3607 & 3608 of 2021

Ramasundari

...Petitioner / A8

-Vs-

1.The State Rep. by,
The Inspector of Police,
Economic Offence Wing – II,
Guindy, Chennai – 32.

... 1st Respondent / Complainant

2.V.S.Dhakshinamurthy

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.8 of 2019 on the file of the Special Court for TNPID Act, Chennai and to quash the same.

For Petitioner : Mr. V. Vijaya Kumar

For R1 : Mr. A. Damodaran,
Addl. Public Prosecutor

For R2 : No appearance



Crl.O.P.No.5581 of 2021

ORDER

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This Criminal Original Petition has been filed seeking to quash the proceeding in C.C.No.8 of 2019 on the file of the Special Court for TNPID Act, Chennai, filed for the alleged offences under Section 5 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act, 1997 and Sections 406, 420 and 120-B of IPC.

2.It is alleged that the 1st accused company by name 'Amaravathi Benefit Fund Limited' collected deposits from the public and failed to repay the said deposits. It is further alleged that the petitioner/A8 was a Director in the 1st accused company.

3.The learned counsel for the petitioner would submit that the allegation in the final report would show that the alleged default in making the payments was in the year 2017. The petitioner had resigned as a Director of the 1st accused company on 23.01.2015. Form DIR - 12 relating to the petitioner is part of the prosecution documents. The learned counsel further submitted that the petitioner is now aged about 85 years and is no way connected with the alleged offences and hence, he prayed for quashing of the impugned proceedings in C.C.No.8 of 2019.

4.The learned Additional Public Prosecutor submitted that some of



Crl.O.P.No.5581 of 2021

the witnesses / victims have stated that they made deposits in the 1st accused company during the year 2007, when the petitioner was a Director of the company. Merely because the petitioner had resigned from the company in the year 2015, he cannot be exonerated from the offences. In any case, the learned Additional Public Prosecutor would submit that the petitioner's involvement cannot be adjudicated in this quash petition and it is a matter of trial. Hence, he prayed for dismissal of the quash petition.

5.Though notice was served on the 2nd respondent, none has entered appearance on behalf of the 2nd respondent.

6.This Court on perusal of the impugned final report finds that the 1st accused company had collected deposits from the public and committed default in making payments to the depositors. The default had started from the year 2017 onwards. The petitioner who is now aged about 85 years had admittedly resigned as Director on 23.01.2015. Form-DIR - 12 which is part of the prosecution documents confirms the said fact.

7.In view of the admitted fact that the petitioner had resigned from the 1st accused company on 23.01.2015, he cannot be prosecuted only



Crl.O.P.No.5581 of 2021

because some deposits were made in the year 2007. The collection of deposits is not an offence. It is the default in making payment, to the Depositors, which is an offence. This offence took place in the year 2017, when the petitioner was not the Director of the 1st accused company. Therefore the petitioner cannot be made liable for the alleged offences.

8. Therefore, this Court is inclined to quash this petition insofar as the petitioner herein alone is concerned in C.C.No.8 of 2019, pending on the file of the Special Court, TNPID Act, Chennai. Accordingly, this Criminal Original Petition is allowed. Connected Criminal Miscellaneous Petitions are closed.

09.06.2023

smv

Index : Yes/No

Speaking order : Yes / No

Neutral Citation : Yes / No

To,

1. The Inspector of Police,
Economic Offence Wing – II,
Guindy, Chennai – 32.

2. The Special Judge, TNPID Act Court, Chennai.



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3.The Public Prosecutor,
High Court of Madras.



Crl.O.P.No.5581 of 2021

SUNDER MOHAN,J.

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Crl.O.P.No.5581 of 2021

Crl.O.P.No.5581 of 2021

09.06.2023