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Crl.O.P.No.6350 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.6350 of 2021

and

Crl.M.P.No.4232 of 2021

A.Ramachandran

... Petitioner / A5

-Vs-

1.The State rep. by:

The Deputy Superintendent of Police,
Economic Offences Wing – II, Guindy,
Chennai - 600 032.
(Crime No.4 of 2017)

... 1st Respondent / Complainant

2.V.S.Dakshinamurthy

... 2nd Respondent / De-facto Complainant

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

For Petitioner

: Mr.Arun Anbumani

For R1

: Mr.A.Damodaran,

Additional Public Prosecutor

For R2

: No Appearance



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ORDER

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This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.8 of 2019 on the file of the Special Court for TNPID Act, Chennai, filed for the alleged offence 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/A5 was a Director in the 1st accused company

3(a).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 14.02.2008. Form-32 relating to the petitioner is part of the prosecution documents. The learned counsel further submitted that the petitioner is now aged about 90 years and is no way connected with the alleged offence.



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3(b).The learned counsel submitted that when the matter came up for admission, this Court had passed the following order dated 01.04.2021,

“5.This Court finds that there is a prima facie case in favour of the petitioner and therefore, the Court below is directed to split up the case and proceed further insofar as the other accused persons are concerned.”

Pursuant to the orders passed by this Court, the case was split up as against the petitioners and the case against the petitioner was numbered as C.C.No.1 of 2022. The learned counsel therefore submitted that the impugned final report in C.C.No.1 of 2022 is liable to be quashed.

4.The learned Additional Public Prosecutor submitted that some of 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 2008, he cannot be exonerated from the



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offences. In any case, the learned Additional Public Prosecutor would submit that the petitioner involvements 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 90 years had admittedly resigned as Director on 14.02.2008. Form-32 which is part of the prosecution documents confirms the said fact. Further, it is seen that this Court had specifically observed at the time of admission, that the case against the petitioner has to be split up. Accordingly, the case has been split up and the case against the petitioner is now pending in C.C.No.1 of 2022 on the file of the Special Court, TNPID Act, Chennai.



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7. In view of the admitted fact that the petitioner had resigned from the 1st accused company on 14.02.2008, he cannot be prosecuted only 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 offence.

8. Therefore, this Court is inclined to quash this petition insofar as the petitioner herein alone is concerned in C.C.No.1 of 2022, pending on the file of the Special Court, TNPID Act, Chennai. Accordingly, this Criminal Original Petition is allowed. Connected Criminal Miscellaneous Petition is closed.

19.04.2023

smv

Index : Yes/No

Speaking : Yes / No

Neutral Citation : Yes / No



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To,
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- 1.The Public Prosecutor,
High Court of Madras.
- 2.The Deputy Superintendent of Police,
Economic Offences Wing – II, Guindy,
Chennai - 600 032.
- 3.The Special Judge, TNPID Act, Chennai.



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SUNDER MOHAN,J.
smv

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