



CRL.RC.No.522 of 2022

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Dated : 03.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.RC.No.522 of 2022

1. City Babu,
2. Munusamy .. Petitioners

Vs.

1. The District Revenue Officer,
Office of the District
Revenue Officer, Cuddalore.
2. Deputy Superintendent of Police,
EOW-II, Cuddalore,
Cuddalore District .. Respondents

Prayer: Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. to set aside the order passed in Crl.M.P.No.93 of 2021 dated 21.12.2021 passed in C.C.No.4 of 2012 on the file of the Special Judge, TNPID Court, Chennai and direct the 1st respondent to refund the deposit made by the petitioners along with interest.

For Petitioner : Mr.D. Anand Raja
For Respondent : Mr. R.Vinoth Raja
Govt. Advocate (crl.side)



ORDER

WEB COPY The petitioners have come forward with this Criminal Revision challenging the order of dismissal passed by the Special Judge, TNPID Court, Chennai on 21.12.2021 in CrI.M.P.No.93 of 2021 in C.C.No.4 of 2012 filed by the petitioners seeking a direction to the 1st respondent to refund the amount deposited by the petitioners with the office of the 1st respondent along with interest .

2. The learned counsel for the petitioners submitted that based on a complaint given by the depositors of A1 financial company, alleging that A1-financial company, represented by A2 and A3 as partners, have collected money from various persons, promising to repay the same along with special interest rate and thereafter, they have failed to repay the amount to its depositors and absconded from the finance company, an FIR was registered against the accused persons. The 2nd respondent arrayed the petitioners as accused in FIR and directed thee petitioners to deposit a sum of Rs.1 lakh and Rs.2 lakhs before the 1st respondent. Accordingly, the petitioners have deposited a sum of Rs.2,00,000/- on 18.05.2010 and Rs.1,00,000/- on 19.5.2010 by way of Demand Drafts drawn in favour of the account of office of first respondent .



Subsequently, the court took cognizance of the criminal case in C.C.No.4 of 2012 and the petitioners were arrayed as A18 and A19 respectively in C.C.No.4 of 2012 before the Special Court under TNPID Act, Chennai on the allegation that they have canvassed other investors to invest their money in A1 company and obtained commission for the same.

3. He further submitted that subsequently, on a discharge petition filed by them in Crl.M.P. No.1258 of 2013 before the trial court, they were discharged from the criminal proceedings initiated against them in C.C.No.4 of 2012, by order dated 03.01.2014. Since they got discharged from the criminal proceedings, they approached the 1st respondent to refund the abovesaid amounts lying in deposit before the first respondent. But the 1st respondent declined to refund the amount. Therefore, they approached this court by way of filing WP.Nos.27983 and 27893 of 2014 seeking to refund the abovesaid amounts. The writ petitions were disposed of by the Court on 19.02.2015, by issuing a direction to the first respondent to consider the representation of the petitioners and pass orders on the same within a period of eight weeks from the date of receipt of a copy therefrom. As the 1st respondent did



CRL.RC.No.522 of 2022

not comply with the order passed in WP.Nos.27983 and 27893 of 2014, within the time stipulated by the Court, the petitioner filed a contempt petition in Cont.P.Nos.802 and 803 of 2017 before this Court. The said contempt petitions were closed based on the order passed by the 1st respondent on 09.07.2017 stating that though they were discharged from the criminal proceedings, they have the responsibility to settle the amounts to their depositors. Aggrieved against the same, the petitioners approached this Court by filing W.P.Nos.33315 and 33319 of 2018 to quash the impugned order passed by the 1st respondent dated 09.01.2017 and to return the deposit amounts. This Court, based on the submission of the learned counsel for the petitioners, dismissed the writ petitions as withdrawn granting liberty to approach the court below by way of filing necessary applications. In pursuance of the abovesaid order, the petitioners filed a petition before the trial court in Crl.M.P.No.93 of 2021. The trial court, by passing the impugned order, dismissed the claim of refund on the ground that after conducting due enquiry only, the 2nd respondent has directed to deposit the amounts of Rs. 1 lakh and Rs.2 lakhs, being a commission amount paid to the petitioners towards their hectic canvassing work during the period of commission of offence and the said amount has to be settled to the depositors.



WEB COPY

4. It is further contended by the learned counsel for the petitioners that the learned trial judge failed to note that the petitioners are also depositors in A1 company and they were also deceived by the A1 company, but that they were falsely arrayed as accused in C.C.No.4 of 2012. Though the petitioners were discharged from the criminal proceedings in C.C.No.4 of 2012, the court below dismissed their claims seeking to refund of the above said amounts. Thus, he prayed for allowing of this revision by directing the 1st respondent to refund the amounts deposited in the office of 1st respondent.

5. When the matter is taken up for hearing, the learned Govt. Advocate (crl.side) submitted that the petitioners are discharged from criminal proceedings in C.C.No.4 of 2012 as per the order passed in Crl.MP.No.1258 of 2013 on 3.1.2014.

6. Heard both sides and perused the impugned order and materials available on record.

7. On perusal of records and the impugned order, it is seen that the petitioners have deposited Rs. One lakh and 2 lakhs as per the direction of the 2nd respondent, before the the first respondent and the same is not



CRL.RC.No.522 of 2022

in dispute. It is also not in dispute that the petitioners were discharged from the criminal proceedings initiated against them in CC.No.4 of 2012 in Crl.M.P. No.1258 of 2013 by order of this Court, dated 3.1.2014. Since the petitioners were discharged from the criminal proceedings in CC.No.4 of 2012, the petitioners are entitled to get refund of the amount of Rs.1 lakh and 2 lakhs respectively lying in the account of office of 1st respondent.

8. In view of the above, the impugned order passed by the court below is hereby set aside and the 1st respondent is hereby directed to refund the amount deposited by the petitioners viz., Rs.1 lakh and Rs.2 lakhs lying before him, within a period of one month from the date of receipt of a copy of this order.

9. The Criminal Revision Case is allowed accordingly.

03.04.2023

Index :yes/no
Internet:yes/no
msr



CRL.RC.No.522 of 2022

To

WEB COPY

1. The Special Judge, TNPID Act, 1997,
Chennai.
2. The District Revenue Officer,
Office of the District Revenue Officer,
Cuddalore.
3. The Deputy Superintendent of Police,
EOW-II Cuddalore,
Cuddalore District.
4. The Public Prosecutor,
High Court, Madras



WEB COPY



CRL.RC.No.522 of 2022

V. SIVAGNANAM, J.

msr

CRL.RC.No.522 of 2022

03.04.2023