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Crl.R.C.No.1500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1500 of 2023 and  
Crl.M.P.No.13390 of 2023

Sri Jalagandeeswarar Finance Corporation  
Represented by Siva,  
S/o.Sigamani, Poigai village,  
Vellore - 632 114.

... Petitioner

Vs.

The State,  
Represented by  
the Inspector of Police,  
Economic Offence wing-II (U),  
Vellore District.

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the orders passed by the learned Special Judge, Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai in Crl.M.P.No.757 of 2023 in C.C.No.5 of 2019, dated 08.03.2023.

For Petitioner : Mr.K.Mukund Rao

For Respondent : Mr.R.Vinothraja,

Government Advocate (Crl. Side)



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**ORDER**

Challenging the orders, dated 08.03.2023 passed in Crl.M.P.No.757 of 2023 in C.C.No.5 of 2019 by the learned Special Judge, Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai, the present Criminal Revision is filed.

2. The revision petitioner is the third accused in C.C.No.5 of 2019. The respondent Police filed a final report against all the eight accused under Sections 406, 420 and 120 (b) of I.P.C., and Section 5 of the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 (hereinafter referred as TNPID Act). The third accused filed a petition under Section 227 Cr.P.C., to discharge him from the charges of which he was charged. When the matter was called for hearing on 08.03.2023 before the trial Court, the petitioner / accused was absent and therefore a Non Bailable Warrant was issued against the accused. Consequently, the petition under Section 227 Cr.P.C. filed by the third accused was also dismissed, aggrieved over which, the present



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revision is filed.

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3. Mr.K.Mukund Rao, learned counsel for the revision petitioner contended that when the matter was called on 08.03.2023, the accused though was standing in the Varanda of the Court, was not alert. After coming to know of the order of Non Bailable warrant issued against him, he informed the same to his counsel who in turn rushed to the Court and filed a petition under Section 70 (2) Cr.P.C., to recall the Warrant. The Non Bailable Warrant was also recalled on the same day. However, the petition filed by the accused under Section 227 Cr.P.C., was dismissed for non prosecution. According to Mr.K.Mukund Rao, learned counsel for the petitioner, the Court after recalling the warrant, ought to have taken the petition filed under Section 227 Cr.P.C., by the accused for disposal on merits. However, the learned Trial Court Judge had dismissed the said petition for non prosecution.



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4. The learned counsel for the petitioner further contended that the prosecution had not adduced any documentary evidence to show that the petitioner / third accused Sri Jalagandeeswarar Finance Corporation, Vellore was in existence at the time of commission of the alleged offence and therefore no charges can be framed against the third accused.

5. The learned trial Court Judge has to go through the materials placed on record by the prosecution before framing of charges. It is brought to the notice of this Court that the charges have not yet been framed in the present case. Therefore, this Court is inclined to remit the matter back to the trial Court since the petition under Section 227 Cr.P.C. was not decided on merits. The Government Advocate (Crl. side) is directed to file a counter before the concerned Court as early as possible. Upon receiving the counter, the counsel for the petitioner is directed to argue the case on the same day. The learned Special Judge, Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Chennai is directed dispose of the petition filed under Section 227 of Cr.P.C. in Crl.M.P.No.757 of 2023 in C.C.No.5 of 2019 on merits after giving opportunity to the



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present petitioner.

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6. With the above observation, this Criminal Revision is disposed of. Consequently, connected miscellaneous petition is closed.

**29.08.2023**

Index: Yes/No  
Speaking/Non-Speaking order  
vum

**Note: Issue order copy today (29.08.2023)**

To

- 1.The Special Judge,  
Special Court under the Tamil Nadu  
Protection of Interest of Depositors  
(in Financial Establishment) Act, 1997,  
Chennai.
- 2.The Inspector of Police,  
Economic Offence wing-II (U),  
Vellore District.



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**R. HEMALATHA, J.**

vum

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