IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.11.2022

Pronounced on : 28.07.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.28272 of 2017

P.Nalini ... Petitioner

Vs.

1.The Home Secretary,
Fort St.George,
Chennai.

2.The Director General of Police,
Radhakrishnan Salai,
Chennai.

3.The Commissioner of Police,
Vepery,
Chennai.

4.The Deputy Superintendent of Police,
EOW-II, Headquarters, Guindy,
Chennai. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents herein to consider her representation dated 13.11.2017, and direct the respondents to transfer the investigation in Crime No.5 of 2014, on the file of E.O.W.II, Guindy, to CBCID, Chennai.

For Petitioner	:	Mr.G.Mohanakrishnan
For Respondents	:	Mr.L.Baskaran Government Advocate (crl.side)

O R D E R

This Criminal Original Petition has been filed to direct the respondents herein to consider her representation, dated 13.11.2017,, and direct the respondents to transfer the investigation in Crime No.5 of 2014, on the file of E.O.W.II, Guindy, to CBCID, Chennai.

2. The facts leading to filing of the present Criminal Original Petition are as follows:-

(i) One M.Parthasarthy and Murugan projected a picture as though 'Grow Rich Foundation', is giving interest at 10% for the amount invested with them and they had taken the petitioner to the office of the Grow Rich Foundation. There, they introduced one S.S.Sundaram, Mahadevan, G.Shankar, Riswan. Sriram, S.S.Siva and Selva to the petitioner. All those persons induced the Petitioner that 'Grow Rich Foundation' started for the welfare of the poor and downtrodden people. For the amounts invested in the Organization, they will give interest @10% pa. out of the aforesaid 10%, 2% will be deducted towards TDS and Service Charges and the balance 8% would be paid to her, per month. That apart, the Petitioner is also entitled to 2% from and out of the amounts invested by the persons, who are introduced by the petitioner. They further assured the entire investment amount would be returned to them after 24 months.

(ii). The said S.S.Sundaram functioned as Managing Partner of the Firm; Mahadevan proclaimed himself as Partner and the said Shankar and Selva were functioning as Marketing Manager. In fact the said Shankar induced the Petitioner to the extent that even if Sundaram has done any mistakes, he will take the entire responsibility for repayment of the amount invested with 'Grow Rich Foundation'. He assured that he would sell all his properties and refund the amount due to the investors. The said Shankar further assured that the Money Transaction in 'Grow Rich Foundation' is done under his direct supervision and that the Petitioner can safely invest the amounts the concern by borrowing amounts through Cheques or mortgaging her immovable property or by any other means and that the investments is being obtained only till March 2014. Further, they requested the petitioner to borrow amounts and pay interest to the Team Members. Believing their words and assurances, the Petitioner borrowed a sum of Rs 34,00,000/- and paid interest to the Team Members. The Petitioner states that even thereafter they were not paid any interest amounts, either to the Petitioner or to the Team Members and the said S.S.Sundaram informed that the amounts were invested in Online Trading at Singapore and Dubai and that the same has been invested for 6 months, position Trading; some amounts were invested in Green Walet Company; some amounts were invested in the Lands through one Jagadish and further assured that the entire Principal together with interest would be repaid on or before November 2014 From December 2014, the said S.S.Sundaram and his associates stopped coming to the Company.

(iii) Earlier, the said Sundaram induced the petitioner to the extent that the 8% interest amount that is due and payable to the Petitioner, if added to the investment, the same would also accrue interest under the TOPUP category and thereby, by way of Top-up, hence not paid any interest for the investment made and cheated the Petitioner. They further induced the Petitioner that, if a sum of Rs.1 crore is invested in the company within March 2014 either by the Petitioner or through the Team Members, a Salary of a sum of Rs.1 lac would be given to them per month and that a house would be registered in their name in the outskirts of Chennai. The said S.S.Sundaram, Shankar and Riswan informed the Petitioner during May 2014 that the company is facing severe financial crisis and to bail out, requested the Petitioner to borrow amounts and pay interest to the Team Members. Believing their words and assurances, the Petitioner borrowed a sum of Rs 34,00,000/- and paid interest to the Team Members.

(iv) From December 2014, the said SS.Sundaram and his associates have stopped from coming to the office of the Company. The petitioner contacted the said Riswan, who informed her to meet Sundaram, Siva, Sriram. Selva and Shankar in their residence at Kamatchi Nagar. The Petitioner herein along with her husband Murugan went to their residence, met them and they informed her that they are having lands at ECR Road and that they would settle the entire amounts by selling the same. In fact several times the said Sundaram informed her that he was at Hotel Tamil Park at Pondicherry and asked them to come there. When the Petitioner went there at Pondicherry, he introduced one Elumalai, who demanded 10% of the amount invested in Grow Rich Foundation for the land to be registered in their name, failing which, they will not get any single amount from the Grow Rich Foundation. Thereafter when the Petitioner informed them that they are lodging a Police complaint, they informed them that entire amounts of 2,32,00,000/- would be settled to them on or before 30.11.2015 and to that effect, they gave a Cheque, bearing No.000025, drawn on HDFC

Bank, for a sum of Rs.2,32,00,000/- in favour of the Petitioner, when deposited, the cheque dishonoured twice.

(v) The said Sundaram. Mahadevan, Shankar, Riswan, Sriram, Siva, Selva, Elumalai, Jagadish and Guna have induced the Petitioner to invest the amounts into the said Grow Rich Foundation and utilized the amounts invested, purchased the lands in the name of M/s Unibull Land Promoters Pvt Ltd., and are now trying to Cheat the Petitioner dishonestly. They had started several companies viz., Grow Rich Real Estate India Pvt Ltd., Grow Rich EPC-Thermal Control Systems Pvt Ltd.. Grow Rich Construction India Pvt Ltd., Grow Rich Trading Pvt Ltd.., Unibull Promotors Pvt Ltd.,, Indo-Western Properties Pvt Ltd., Aurora Fintech Solutions Pvt Ltd., Green Vault Investment Consultants Pvt Ltd., Bio Ultima Life Sciences Pvt Ltd.. EDU Ultima Pvt Ltd., Cosmo Bio Solutions Pvt Ltd.. Global Thermal Control Systems Pvt Ltd., Ultima Agro Solutions Pvt Ltd., in which, the funds of the Grow Rich Foundation invested:

3. Mr.G.Mohanakrishnan, the learned counsel appearing for the petitioner would submit that the petitioner had been cheated by the accused on a false promise of giving more interest on the investment made in the Company. Therefore, the Petitioner lodged a Complaint on

19.02.2016 with the E.O.W. II, Guindy,. The aforesaid persons have now started a new company in the name and style of Getrobiz Global Limited at No.2. Miuthuramalinga Street, Ponthamalli High Road, Ekkattuthangal, Chennai and are engaged in the Online Trading defrauding several persons. However, till this date no action has been initiated by the Respondent Police against the Complaint of the Petitioner. Further, the Respondent Police not initiated any steps to recover and seek attachment of the properties of the various Companies and the Bank accounts of the aforesaid companies. The Investigating Agency in a biased manner conducting investigation, therefore, in order to protect the interest of the Petitioner as well as several other investors, the matter to be transferred to the CBCID, Chennai.

4. The learned counsel for the petitioner further submits that in this case, in the year, 2015, an FIR registered and for the past eight years no worthwhile investigation has been conducted. The petitioner and her family members and relatives have invested more than Rs.2.83 Crores. In fact, the accused A1 and A2, who are now ranked as A11 and A12 had issued a cheque for more than Rs.3 Crores in favour of the petitioner. The petitioner had approached this Court on several occasions and each time, the respondent Police would state that investigation is in progress and the property at Marakkanam Village,

Villupuram District and another property at TADA of Andhra Pradesh have been identified. Further, no action has been taken and the properties have not been attached. He would further submit that during the months of February and March, 2021, two status reports have been filed. The status reports are nothing but verbatim repetition. There is no progress in the investigation except saying that along with the petitioner 11 others have been arraigned as accused, who are the team leaders. The explanation given by the prosecution is that the team leaders have acted along with the main accused and also enriched themselves. He further submitted that 2% incentive given during the business has been shown as an enrichment and part of participating in the crime and further, there are 37 accused and except for change in the accused rank, no worthwhile investigation has been done.

5. The learned counsel further submitted that, earlier, this Court, on 11.01.2022, directed the petitioner and others to appear before the Investigating Officer on 24.01.2022 and 25.01.2022. As per the direction of this Court, the petitioner appeared before the Investigating Officer along with her family members and other depositors. At that time, the petitioner was made to wait in the police station for the whole day and she was not at all enquired. Further, when the petitioner insisted that she should be enquired as per the order of this Court, she was asked to

sign the statement, which was already made ready, for which the petitioner and others refused. Thereafter, now they are shown as accused. Therefore, the learned counsel seeks transfer of investigation in Crime No.5 of 2014 on the file of E.O.W.II, Guindy to CBCID, Chennai.

6. Mr.L.Baskaran, the learned Government Advocate (crl.side), appearing for the State submits that, after registration of the case, the investigation has been progressed. It is an well organised crime that the main accused using 9 shell companies committed an offence and all the 9 companies have been identified. Steps taken to attach the properties derived from the ill-gotten money. The scheme promoted by the main accused is that interest at 10% per annum would be given for all deposits and the group leaders would be given 2% incentive for the amount invested by the persons, who are introduced by them. Believing their words and assurances, several depositors have deposited and now there are totally 475 depositors, who have lost huge amount to the tune of Rs 43,20,10,000. So far, properties at TADA of Andhra Pradesh and Marakkanam Village, Villupuram District worth about Rs.87,44,000 identified and steps taken through the District Revenue Officers to attach the properties. With regard to the other properties in various parts of the State, viz. Thanjavur, Pattukottai, Uthiramerur, Perambalur, Kuttralam and Villupuram, letters addressed to the respective Sub

Registrars to identify the properties not to entertain documents or transaction pertaining to the properties. He would further submit that steps are taken with the concerned bank to find out the operation of the bank accounts and to freeze the bank account of the accused company. He would further submit that the petitioner and other group leaders, in order to escape from the offence and to create defence has filed this petition. He submits that the petitioner and others have arraigned as accused and notice under Section 41-A Cr.P.C. Notice to be issued and documents would be collected from the petitioners and others, earnest steps will be taken to complete the investigation within a short period. Now substantial portion of investigation completed, shortly final report will be filed.

7. The learned Government Advocate (crl.side), filed the Status Report of the Additional Director General of Police, EOW, Chennai, and the respective Investigating Officers at the relevant period of time, wherein it is indicated that the Company A1/ Grow Rich Foundation, was formed, commenced business by the accused / A2 /S.S.Sundaram and A3 / V Mahadevan during 2011, as a Firm, registered the same with Sub-Registrar Office, Saidapet, Chennai in RC No.749/2011, dated 29.04.2011. On 07.01.2015, one Mr.V.Soupriyan of Pondicherry, preferred a complaint against the accused alleging that he had deposited

Rs.5,60,000/- in A1 / Grow Rich Foundations, No.55/9, 2nd Floor, Karikalan Street, Paari Nagar, Jaferkhanpet, Chennai, on the promise of the accused A2 / S.S.Sundaram, and A3 / V.Mahadevan, they also gave personal guarantee, promised 10% interest on the deposit amount and 2% referral fee for enrolling new depositors in the Company. The accused issued receipts to the depositors in the name of Loan Agreement, in deceitful manner to project the amount received as loan instead of deposit. The company / Al refunded Rs 44,800/- to the complainant and defaulted the rest of the amount. Despite several efforts, the accused gave a cheque No.000392, dated 03.08.2014 of HDFC Bank, for Rs.5,60,000/- with a request not to present the same, as they would return the amount in cash soon. As the accused dragged to settle the amount to the complainant, the complainant deposited the cheque in Bank, which was dishonored by the Bank, due to insufficient fund in the respective account.

8. The learned Government Advocate further submitted that based on the complaint, the case in EOW II, Chennai Cr.No.01/2015 u/s 420 IPC & Sec 5 of TNPID Act, 1997 was registered against Al M/s. Grow Rich Foundation, A2 S.S.Sundram, and A3 V.Mahadevan, for the alleged offences of cheating. criminal breach of trust and criminal conspiracy. The Inspector of Police, EOW II, Chennai, registered the case, collected

relevant documents from the complainant. The case was taken up for further investigation by the Deputy Superintendent of Police of EOW-II, Chennai and he examined 20 witnesses and recorded their statements. He had also sent letters to the Sub-Registrars of Perambalur, Uthiramerur, Thanjavur, Villupuram, Pattukottai for collecting the details of properties belonging to the accused A1 to A3. Now the case investigated since 28.06.2021 by the Deputy Superintendent of Police, EOW-II Chennai. Till date, examined 107 witnesses out of 450 depositors, who were to be paid an amount of Rs.11,33,09,700/-. The remaining witnesses are being examined, for the defaulted amount of Rs.30,21,90,000/-. As per the present investigation the total defaulted amount is arrived at Rs.41,54,99,700/-

9. It is further submitted that in order to promote the business, the accused persons A2/ S.S.Sundaram and A3 / V.Mahadevan have utilized the services of G.Shankar, Selva, Sriram and Riswan. They are former Marketing Managers of the said Company. They have also been arrayed as co-accused in this case. The petitioner invested Rs. 1,98,00,000/- from July 2013 to March 2014, in Grow Rich Foundation, by mobilizing amounts from 24 group members (including herself) in the capacity as agent/group leader of her group, colluded with the accused, as *quid pro quo* in return of commission. The petitioner received an amount of

Rs.7.13 lakhs, through 31 transaction from Grow Rich Foundation, in the name of her minor sons, Master Ajith Kumar and Ranjith Kumar, in two accounts of Punjab National Bank, Mugappair Branch, during the period from August 2013 to August 2015. During enquiry with her group members it was revealed that they have not received any money that was due to them. The investigation of 12 sister concerns revealed only 9 companies registered with ROC and the 14 Directors of the above said accused companies all arrayed as accused, besides the 11 agents/group leaders, who collected huge sum of money from their 343 group members. The investigation is continuing on these companies and the Directors. In continuation of the investigation, the search was conducted to the new premises of Getrobiz Holding Ltd., at No.60/36, Defence Officer's Colony, Nandambakkam, Chennai, and important documents, pertaining to the transactions were recovered and are under scrutiny.

10. The learned Government Advocate further submitted that, during the course of the investigation, it is ascertained that the following Companies namely i) M/s. Grow Rich EPC Thermal Control Systems Pvt. Ltd.; M/s Cosmo Bio Solutions Pvt. Ltd..; M/s Bio Ultima Life Sciences Pvt. Ltd.; M/s Unibull Land Promoters Pvt. Ltd.; M/s. Grow Rich Trading Pvt. Ltd,; M/s Grow Rich Real Estate (India) Pvt. Ltd.; M/s.

Getrobiz Holding Ltd.,; M/s. Grow Rich Constructions (India) Pvt. Ltd.; M/s Ultima Agro Solutions Pvt. Ltd, were also floated by the prime accused; Therefore, the above 9 companies have included as additional accused in the present case. Further, one 1) Kantharooban, 2) Arul, 3)Visalakshi, 4) Ramya Chandra, 5) Chandrasekaran, 6) N.R. Senthil, 7) Joshua John, 8) S.Jagadeesh. 9) Sankar, 10) Prakash 11) Harikrishnan, 12) Karthikeyan, 13) Ajay Mishra, 14) Ganesh, were working in the above 9 companies, under various designation, as per the ROC details and therefore, they have also been included as accused in the present case, for the offences under section 5 of TNPID Act, 1997. Further 11 more persons namely 1) Joshua, 2) M.Gopi, 3) Devaraj, 4. P.Nalini 5) Tamilvanan, 6) Palanivelu, 7) S. Murugan, 8) D.Sathish, 9) Guna, 10) S.Iyyappan, 11) Bhuvaneswari, have also collected the amount from the depositors, in the capacity as group leaders from respective groups, for gaining huge sum of commission from the prime accused and those 11 persons added as accused and therefore, the total number of accused of the present case is 37 in the Crime No.1/2015 and Section altered from 420 IPC., to Section 5 of TNPID Act, 1997 and under Sections 409, 420, 120(B) IPC. The alteration report of law and inclusion report of additional accused filed before the Hon'ble TNPID Court, Chennai.

11. The learned Government Advocate further submitted that, a property identified at TADA Andhra Pradesh is about 9.77 acres having market value of 15 crore. The investigation officer addressed the District Revenue Officer vide letter dated 02.02.2022 awaiting receipt of revenue documents, soon properties to be attached. More properties identified in Pudukottai, Perambalur, Utiramerur and Dindivanam. The addition of new companies, has mandated the need of strengthening the investigation team, hence, additional staff assigned to the lead investigator to assist him in the investigation, searches are planned in near future and a proper plan of investigation will be put in place. The Superintendent of Police, EOW monitors and reviews the case periodically sends progress report to Headquarters fortnightly, investigation would be completed expeditiously.

12. I have heard the learned counsels appearing on either side and perused the materials available on record.

13. On perusal of the records it is seen that the Company A1/ Grow Rich Foundation, was started by A2 and A3 during 2011, as a Firm, registered with Sub-Registrar Office, Saidapet, Chennai in RC No.749/2011, dated 29.04.2011. On 07.01.2015, one V.Soupriyan of

Pondicherry, preferred a complaint against the accused alleging that he deposited Rs.5,60,000/- in the Company viz., Grow Rich Foundations, on believing the promise of the A2 and A3, being the partners, that they would be provided 10% interest on the deposit amount and 2% referral fee for enrolling new depositors in the Company. The company / Al refunded Rs 44,800/- to the complainant and defaulted the rest of the amount. Despite several efforts, the accused gave a cheque No.000392, dated 03.08.2014 of HDFC Bank, for Rs.5,60,000/- with a request not to present the same, as they would return the amount in cash soon. As the accused dragged to settle the amount to the complainant, the complainant deposited the cheque in Bank, which was dishonored by the Bank, due to insufficient fund in the respective account. Hence, on the complaint of the defacto complainant, the case in EOW II, Chennai Cr.No.01/2015 u/s 420 IPC & Sec 5 of TNPID Act, 1997 registered against Al M/s.Grow Rich Foundation, A2 / S.S.Sundram, and A3/ V.Mahadevan, for the alleged offences of cheating, criminal breach of trust and criminal conspiracy. The Inspector of Police, EOW II, Chennai, registered the case, collected relevant documents from the complainant. The case was taken up for further investigation by the Deputy Superintendent of Police of EOW-II, Chennai. Till date, he has examined 107 witnesses out of 450 witnesses. The remaining witnesses have to be examined for the defaulted amount of Rs.30,21,90,000/-. As per the present investigation the total defaulted amount is arrived at Rs.41,54,99,700/-

14. On perusal of the complaints and FIR, it is seen that large-scale fraud was played on the innocent public, who deposited their hard-earned money with certain unscrupulous Company/A1 on the inducement of persons, who were Directors / Team Leaders, who already arrayed as accused in this case. According to the prosecution, substantial part of investigation progressed. Now sections altered in Crime No.1 of 2015 from 420 IPC and Section 5 of TNPID Act to Sections 409, 420 and 120(B) of IPC and under Section 5 of TNPID Act. Further, additional persons arrayed as accused. No doubt, the agony of a citizen for conducting fair and proper investigation cannot be ignored. Considering the entire facts and circumstances of the case and taking note of the Status Reports filed by the Additional Director General of Police, EOW, Chennai and the Investigating Officers, this Court is convinced and satisfied with the present Investigating Agency in continuing the investigation. Further, change of Investigating Agency in the midstream, would definitely cause further delay to the investigation.

15. In view of the forgoing discussions, this Criminal Original Petition is disposed of with a direction to the 4th respondent, the Deputy Superintendent of Police, EOW-II, Chennai, to complete the investigation and to file the final report before the concern Court, within a period of six months, from the date of receipt of a copy of this order. The Additional Director General of Police, EOW, Chennai, to Monitor the Investigation by periodical review.

28.07.2023

Index: Yes/No
mpk/vv2

To

1.The Home Secretary,
Fort St.George,
Chennai.

2.The Director General of Police,
Radhakrishnan Salai,
Chennai.

3.The Additional Director General of Police,
EOW, Chennai,

4.The Commissioner of Police,
Vepery,
Chennai.

5.The Deputy Superintendent of Police,
EOW-II, Headquarters, Guindy,
Chennai.

6.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

MPK/VV2

CRL.O.P.No.28272 of 2017

28.07.2023