



*Crl.R.C.Nos.1848, 1849, 1872, 1874, 1875,
1885 and 1888 to 1891 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Orders Reserved On 07.11.2023 & 10.11.2023	Orders Pronounced On 22.12.2023
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**Crl.R.C.Nos.1848, 1849, 1872, 1874, 1875, 1885
and 1888 to 1891 of 2023**
**and Crl.M.P.Nos.17448, 17449, 17527, 17532, 17544,
17594, 17611, 17616, 17628 and 17630 of 2023**

Crl.R.C.No.1848 of 2023

R.Subramanian

... Petitioner/A4

Vs.

State Represented by
Deputy Superintendent of Police,
Economic Offences Wing – II,
Guindy, Chennai – 32.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to revise and set aside the order dated 26.10.2023 of the Special Court in Crl.M.P.No.4001 of 2023 in C.C.No.6 of 2020 on the



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file of the Special Court for Tamil Nadu Protection of Interest of Depositors
[in Financial Establishment] Act, Chennai.

For Petitioners in all Crl.R.Cs	:	Mr.R.Subramanian Party-in-Person
For Respondent in all Crl.RCs.	:	Mr.A.Damodaran Additional Public Prosecutor

COMMON ORDER

The petitioners who are accused in C.C.No.6 of 2020 filed petitions in Crl.M.P.Nos.4001, 3996, 3997, 3998, 3999 and 4000 pf 2023 before the learned Special Judge under the Tamil Nadu Protection of Interest of Depositors [in Financial Establishment] Act, 1997, Chennai to reopen the case for concise arguments of the petitioners by correcting the adjudication dated 20.10.2023. The Lower Court by separate orders dated 26.10.2023 dismissed the petitions. Against which, the present revisions petitions filed.

2.A1 is the financial establishment and A4 is the Managing Director. Though names of several Advocates were shown, A4 appeared party-in-



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person for himself as well as for A1 Company and others both before the Lower Court as well as before this Court.

3.The primary contentions of the petitioners is that a final report was filed on 17.07.2019 before the Special Court in which 14 persons were arrayed as accused listing 775 complaints out of 1000 complaints received and rest of the complaints were reported to be under investigation. The final report was returned for some defects. On 11.10.2020, final report was re-submitted, at that time, again 14 persons were shown as accused and 547 persons were shown as victims against the earlier projection of 775 persons. On 16.10.2020, the victims were increased to 587 and the case was taken on file in C.C.No.6 of 2020. During the proceedings in Crl.O.P.No.18545 of 2023 the respondent submitted that 460 complaints are pending and the supplementary final report is ready to be filed. But till date no such supplementary report filed. Despite pendency of the supplementary final report, the prosecution closed the evidence on 23.06.2023. It is not known as to whether final report to be modified at a later stage and whether new accused and new victims are to be included or some of the accused to be



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deleted. In this case, even for supply of copies under Section 207 Cr.P.C., the case was pending for over one year till 16.02.2022. The Trial Court misunderstood the Apex Court direction dated 11.03.2022 for speedy trial to conclude the trial within a period of six months had flouted all the procedures depriving the petitioners/accused of their right to defend their case as per the established procedure and law.

4.In this case, 17 individuals and 17 Companies are arrayed as accused. The Trial Court for this reason acted perversely both at the stage of Sections 242 and 243 Cr.P.C. by not allowing cross examination, not allowing inspection of case files, not complying with requirements of access to accused to non relied upon documents and statements despite the Criminal Rules of Practice and the dictum of the Hon'ble Apex Court. Rule 42(7) of the Criminal Rules of Practice, 2019 is mandatory which is not followed, likewise, Rule 34C of the Criminal Rules of Practice also flouted. The chief examination of P.W.88/Investigating Officer was recorded for 75 days but cross examination was terminated within 30 days without giving time. The Investigating Officer in his evidence stated that investigation is



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continuing in respect of 460 complaints and report is ready. This being so, termination of trial just only for the reason that the Hon'ble Supreme Court giving a direction would amount to denial of fair trial and justice to the petitioners.

5.The petitioners on conclusion of examination of witnesses, earlier made oral submission between 11.09.2023 and 13.09.2023 and the case was posted for judgment on 27.09.2023. In the meanwhile, the Presiding Officer got transferred and the petitioner by way of concise argument from 03.10.2023 to 07.10.2023 argued before the learned VIII Additional City Civil Judge, Chennai who was holding full incharge of the Special Court after 13.09.2023. On 09.10.2023 the earlier Special Judge got re-posted to the same Court and he resumed on 10.10.2023. This Presiding Officer reserved the judgment first on 31.08.2023 and then on 13.09.2023. On 10.10.2023, the Special Court posted the case on 11.10.2023 for concise argument of the petitioners. The petitioners filed a memo dated 11.10.2023 setting out that daily written synopsis of previous day oral arguments would be tendered. Thereafter, on 12.10.2023 oral arguments commenced,



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followed on 13.10.2023, 16.10.2023, 17.10.2023 and 18.10.2023. On 18.10.2023, post-lunch session was allotted to A7, A13 and A14, thereafter on 19.10.2023 and finally on 20.10.2023. On 20.10.2023, A1 argued from morning till 4.45 p.m., thereafter submission was stopped as Special Court staffs were to conduct Ayudha Pooja and the Presiding Officer directed A7, A13 and A14 counsel to submit their argument from 5.45 p.m. and at about 6.20 p.m, the proceedings of the day got terminated. The petitioner was under the impression that he would be given opportunity to complete his arguments. From the e-Courts recording dated 20.10.2023, it is seen that A4/main accused who appeared party-in-person for A1/Financial Establishment submitted the points for refreshing memory. The other accused adopted the submissions made by A1 and it is also recorded that in this case already the present officer heard arguments of all accused fully before 13.09.2023 and after re-posting him as Presiding Officer on 10.10.2023, hearing of main points as requested by A4 heard and completed at 6.15 p.m. Further, synopsis for oral arguments is being filed with case records and the accused is permitted to file written arguments, if any on 25.10.2023 and the case was reserved for pronouncement of judgment by



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07.11.2023. Thus questioning the same and for concise argument, petitions were filed but the same were dismissed. Challenging the impugned orders, these revisions petitions filed.

6.The petitioner appearing in person in support of his contention relied upon the judgment of the Apex Court in the case of ***Zahira Habibullah Sheikh and another vs. State of Gujarat and others*** reported in ***[2006] 3 SCC 374*** stressing the point that principles of rule of law and due process are closely linked with human rights protection. Such rights can be protected effectively when a citizen recourse to the Courts of law. Further, for the point that denial of fair trial is as much injustice to the accused as is to the victim and the society. Fair trial obviously would mean a trial before an impartial judge. The proof of charge which has to be beyond reasonable doubt must depend upon judicial evaluation of the totality of the evidence, oral and circumstantial, and not by an isolated scrutiny.

7.The petitioner further relied upon the judgment of the Apex Court in



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the case of ***Criminal Trials Guidelines Regarding Inadequacies and Deficiencies, In Re. vs. State of Andhra Pradesh and others*** reported in ***[2021] 10 SCC 598***, wherein Draft Criminal Rules on Practice, 2021 which are to be adopted by all Criminal Courts is given. Further, the petitioner relied on the judgment of the Apex Court in the case of ***P.Ponnusamy vs. The State of Tamil Nadu*** reported in ***2022 SCC Online SC 1543***, wherein it was observed that statements, documents, material objects and exhibits seized during investigation which were relied upon by the Investigating Officer to be furnished to the accused. He further referred to the Gazette Notification amending Criminal Rules of Practice, 2019 dated 23.03.2022 wherein amendment was made to Section 26-A on the similar lines.

8.Further, for not considering all 14 properties and attaching only 5 properties and issuance of attachment in G.O.Ms.No.741 dated 06.10.2017 is not proper and hence, he filed a writ petition in W.P.No.12952 of 2021. This Court by order dated 11.08.2022 directed the respondents therein to initiate action in accordance with the provisions under Section 3 of the TNPID Act, 1997 which has not been followed.



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9.The learned Additional Public Prosecutor strongly opposed the contention of the petitioners and submitted that the petitioner has been adopting all forms of dilatory tactics right from registration of the case in one form or other. A case in Crime No.5 of 2013 was registered on 21.10.2023 by EOW-II Headquarters on 21.10.2013 and a case in Crime No.1 of 2015 was registered by EOW, Trichy on 11.01.2015. Thereafter both the cases were merged and on completion of investigation, charge sheet was filed in C.C.No.6 of 2020 on 16.10.2020. In this case, the accused cheated 587 depositors to the tune of Rs.51,47,29,861/-. The Apex Court in SLP(C)/14808/2020 dated 04.01.2021 directed the trial Court to proceed and conclude the trial expeditiously. Further in Diary No.30938 on 11.03.2022, the Apex Court directed the trial court to conduct the trial on day to day basis and dispose of the case not later than six months from the date of receipt of a copy of the order. Further the Apex Court directed all the parties to co-operate in disposal of the trial and any impediment in implementing the above directions is liable to invite action for breach of the order of this Court.



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10.He would submit that A18-M/s.Analog Financial Service Private Limited on 29.09.2022 filed an application before this Court in Comp.A.No.394 of 2022 for modification of the scheme sanctioned on 30.04.2014. This Court earlier ordered winding up of A1-M/s.Viswapriya (India) Limited vide order dated 21.04.2023 in C.P.No.15 of 2014. This Court further held that allowing the modification only affect the interest of the debenture holders and it will be beneficial for the promoters to safeguard them from all criminal proceedings and other liabilities, thereby they will absolve from all the responsibilities. Therefore, this Court cannot be wittingly or unwittingly be a party for all those misdeeds of the applicant as well as A4/party-in-person and other Directors M/s.Viswapriya (India) Limited.

11.He would further submit that in C.C.No.6 of 2020, trial was completed on 13.09.2023, the case was reserved for judgment and posted for pronouncing the judgment on 27.09.2023. Thereafter, since the Presiding Officer was transferred out of TNPID Court with effect from



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14.09.2023, the case was taken up for hearing on 27.09.2023 by the Presiding Officer who is incharge of the Special Court. Again the earlier Judge was re-posted to TNPID Court on 09.10.2023. The learned Special Public Prosecutor submitted that the oral arguments already made by the Prosecution and the written arguments submitted him to be taken on record. The present Judicial Officer of the Special Court already heard the arguments of both sides extensively till 13.09.2023 and the Special Court contended that the arguments conducted post 09.10.2023 were conducted for refreshing the memory. The learned Special Judge heard all the points putforth by A4 representing A1/Financial Establishment, regulated the concise argument then and there, thereafter the counsel for A3, A7, A13 and A14 submitted their final submissions. The Special Court closed the concise submissions for refreshing the memory and reserved the case for pronouncing the judgment on 07.11.2023. In the meanwhile, the accused were permitted to file their written arguments on or before 25.10.2023. A1 filed the synopsis for oral arguments made between 12.10.2023 and 20.10.2023 which were treated as written arguments. A7 filed the written arguments as directed by the Special Court. The accused thereafter filed 12



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petitions on 25.10.2023, of which 6 petitions were to reopen the case and other 6 petitions were filed for advancing the hearings which were dismissed and against which, the present revision petitions filed. The accused even before 25.10.2023 with the intention of delaying the pronouncement of judgment filed petitions in Crl.M.P.Nos.4001/2023 and 3996/2023 which were dismissed by the Special Court. Hence, it is apparent that the petitions were filed only for the purpose of delaying and to defeat the pronouncement of judgment on 07.11.2023.

12.He would further submit that the grievance of the petitioner as regards the left out complaints, the Trial Court already recorded that at the time of disposal of the case, suit orders in respect of pending complaints, if any with the Police will be passed. Against which, A4 filed revision petitions before this Court in Crl.RC.Nos.1093, 1094, 1099, 1104, 1105, 1106 & 1106 of 2023 and this Court by order dated 19.07.2023 dismissed all the petitions, which reads as follows:

“8.At the outset it may be observed that right of accused to ask for all the documents that he may be



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entitled to is one of the facets of just, fair and transparent investigation. However, as per the counter of the Investigation Officer, he had filed the final report along with the available records and the case was taken on file by the concerned trial court judge. It is seen from the records that the process of questioning the accused under Section 313 Cr.P.C has already commenced. However, the Investigating Officer had not concluded the investigation with regard to the remaining depositors under Section 173(8) Cr.P.C. The documents, the copies of which are sought for by the present accused, are the complaints of 250 depositors along with documents of proof. These documents, as already observed, are not in the custody of the court. However, I fail to understand how the present accused would be prejudiced if he is not furnished with the copies of those complaints. Mr.Prakash Goklaney, learned senior counsel for the revision petitioner contended that the police might file another charge sheet with regard to the same offences and the present petitioner may have to face another trial. As already observed, the process of questioning the accused under Section 313 Cr.P.C had commenced and till date the prosecution had not concluded their investigation as it is seen from their counter. In the circumstances, all the Criminal Revision Petitions are



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dismissed as devoid of merits.

9.In the result,

i.all the Criminal Revision Petitions are dismissed.

No costs.

ii.the orders dated 29.05.2023 passed by the Special Judge under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 in C.A. No.227/2023, Crl.M.P. No.1933 of 2023, C.A. No.236/2023, Crl.M.P.1932 of 2023 in CC No.6/2020 and orders dated 30.05.2023 in Memo Sr 811/2022, Crl.M.P. No.231 of 2023 and Crl.M.P. SR. No.1970 of 2023 in CC No.6 of 2020, are confirmed. No costs.”

13.He further submitted that as regard the grievance of the petitioner for non-compliance of Section 242 r/w. Rule 42(7) of Criminal Rules of Practice, the Trial Court dismissed the petitions on 20.10.2023 by holding that these petitions filed after closing the prosecution evidence only to drag on the disposal of the case. Further, the Trial Court also observed that it would be a mini judgment in the stage of defence witness and there is no provision under Section 243 Cr.P.C. to decide objections already already recorded during evidence of prosecution. The act of the petitioner in filing



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innumerable petitions again and again with similar prayer is nothing forum shopping and it is a mockery of justice. Hence, he prayed for dismissal of these petitions.

14.Learned Additional Public Prosecutor referred to the orders passed by the Apex Court in Special Leave to Appeal(C).No.14808/2020 dated 04.01.2021, Miscellaneous Application Diary No.30938/2021 and Writ Petition (Civil)NO.1083/2023. He further referred to order passed by this Court in Crl.O.P.Nos.22636, 22637 and 22639 of 2016 dated 21.10.2016 and Crl.O.P.No.1771 of 2017 dated 14.02.2017. He had also produced the tabulation showing various petitions, miscellaneous petitions filed by the petitioner before the Trial Court as well as the revisions filed before this Court and all the petitions were dismissed as devoid of merits.

15.On the facts narrated and considering the submission made, it is seen that the grievance of the petitioners is that no opportunity of making oral submission was given. From the synopsis dated 12.10.2023, on 13.10.2023 covered from P.W.11 to P.W.36 and on 16.10.2023 from



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P.W.37 to P.W.85. Thereafter, he filed written submissions on 18.10.2023, 19.10.2023 and 21.10.2023. He filed the synopsis covering the entire oral evidence and documentary evidence and also made his submissions in detail till 25.10.2023. The petitioner was not denied for advancement of arguments and submission of synopsis on all these dates. His only grievance was that he has to make some more submissions which was left over. Thereafter, on ascertaining from the petitioner and prosecution, the petitioner was given time to make his submissions and he also filed a hand written memo to that effect which is extracted in the order dated 07.11.2023.

The order dated 07.11.2023 read as follows:

Learned counsel appearing for the petitioner completed his arguments.

2. Learned Additional Public Prosecutor had also replied to the same.

3. Both of them have filed typed set of papers, which are voluminous and finally, when this Court specifically put a question to the petitioner, whether he is agreeable to three days time to complete his arguments



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before the Lower Court i.e., two days on factual aspects and one day on the legal aspects, the learned counsel for the petitioner filed a memo by giving an undertaking that he will commence his arguments by tomorrow (08.11.2023) and on the next day i.e., 09.11.2023, is his father's annual ceremony and he has to attend the same, hence, he will continue his argument on 10.11.2023 and complete the factual arguments. The next days i.e., 11.11.2023 and 12.11.2023 will fall on Saturday and Sunday and 13.11.2023 and 14.11.2023 are the Deepavali holidays. Hence, the arguments on the legal aspect will commence on 15.11.2023 and will conclude on the same day. In any event, he will complete his arguments in all aspects by 15.11.2023 and he will not seek for any adjournment and be a reason for any delay. A scanned reproduction of the memo filed by the learned counsel for the petitioner is as follows:



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M/s Viswagunya (Inda) Ltd
vs
State rep by EOW-2
AND
Crl.R.C. 1848 of 2023
Mr R. SUBRAMANIAM
vs
State rep by EOW-2
Ruchangra Inda Series M.L. C.R. 1875, 1885, 1872, 1874, 1875
MEMO OF PETITIONERS

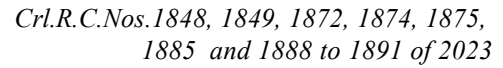
- The Petitioners state as under:
1. That the case of the Petitioners vs the oral arguments were not fully heard when arguments were closed by Trial Court on 20.10.2023.
 2. That Petitioners have opposed to complete the arguments on 8.11.2023, 10.11.2023 & 15.11.2023 given the directions of the Hon'ble Apex Court for expeditious trial and the constraint for the special court thereby.
 3. That the Petitioners undertake to complete their submissions as above.

It is therefore prayed that the Hon'ble Court may take the Memo on record and peruse allow the oral arguments on 8.11.2023, 10.11.2023 & 15.11.2023 for the Petitioners in the interest of Justice.

DATED AT CHENNAI ON THE 7TH DAY
OF NOVEMBER 2023

R. Subramaniam

Perin Ramo



4. The learned Additional Public Prosecutor as well as the Special Public Prosecutor (civil and criminal side) attached to the Trial Court are present before this Court.

5. In view of Article 21 of Constitution of India, these three days time to complete his arguments in all



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manner is granted. The petitioner shall not file any petition or memo in any pretext which shall delay the progress of his arguments. The petitioner to continue his arguments on 08.11.2023, 10.11.2023 and finally conclude on 15.11.2023. Thereafter, Trial Court to fix the date for judgment. It is made clear that, if any dilatory tactics is adopted, the Trial Court is free to take coercive action and see to that the arguments in C.C.No.6 of 2020 to be completed on 15.11.2023.

16.In view of the fact that the petitioners were given sufficient time to make submissions and now the grievances of the petitioners has been addressed. Now, judgment was rendered convicting all the accused by judgment dated 20.11.2023 in C.C.No.6 of 2020. Hence, nothing survives in these petitions. Accordingly, Crl.RC.Nos.1848, 1849, 1888 to 1891 of 2023 stand dismissed confirming the impugned orders dated 26.10.2023. Consequently, connected miscellaneous petitions are closed.



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17.Further, Since this Court passed a detailed order in Crl.RC.Nos.1848, 1849, 1888 to 1891 of 2023 and the grievance of the petitions has been considered, nothing survives in these petitions. Accordingly, Crl.RC.Nos.1872, 1874, 1875 and 1885 of 2023 also stand dismissed. Consequently, connected miscellaneous petitions are closed.

22.12.2023

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

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To

- 1.The Deputy Superintendent of Police,
Economic Offences Wing – II,
Guindy, Chennai – 32.
- 2.The Special Judge,
Special Court for Tamil Nadu Protection
of Interest of Depositors
[in Financial Establishment] Act,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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Pre-delivery order made in

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