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Crl.O.P.(MD)No.20796 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.20796 of 2023

and

Crl.MP(MD)Nos.16336 and 16337 of 2023

Ambika : Petitioner/A5

Vs.

1.The State of Tamil Nadu
rep. by the Deputy Superintendent of Police,
E.O.W.II (Finance Institution),
Nagercoil,
Kanyakumari District.
(Crime No.1 of 2016) : R1/Complainant

2.A.Kamala : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet in CC No.11 of 2018 on the file of the Special Court under Tamil Nadu Protection of Interest of Depositors (In financial Establishment) Act, 1997, Madurai and quash the same in so far as the petitioner/5th accused is concerned.

For Petitioner : Mr.S.Pillai Monicantan

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



Crl.O.P.(MD)No.20796 of 2023

O R D E R

This criminal original petition has been filed seeking quashment of the charge sheet in CC No.11 of 2018 on the file of the Special Court under Tamil Nadu Protection of Interest of Depositors (In financial Establishment) Act, 1997, Madurai.

2.The facts in brief:-

The 2nd respondent is the de-facto complainant. She lodged a complaint stating that A1 namely M/s.Rajakkamangalam Benefit Fund Limited is a registered one. Totally six accused persons canvassed her about the scheme that was floated by the Company and invited them to deposit the amount. They were promised to pay 18% interest per annum. Believing the words of the accused persons, the 2nd respondent deposited a sum of Rs.2,00,000/-. After the maturity amount, she demanded repayment of the maturity amount along with interest. But there was a delay and there is no payment. So, she lodged a complaint, over which, a case in Crime No.1 of 2016 was registered for the offences under sections 406, 420, 120(B) of IPC and section 5 of TNPID Act, 1997.



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Crl.O.P.(MD)No.20796 of 2023

3. During the course of the investigation, it was found that four more persons were also involved in the above said offences and they have been implicated as A9 to A12. A2, A4, A7, A8, A9 and A10 are the Board of Directors. So also A5, A6 and A11 as Board of Directors worked from 27/06/1996 to 03/12/2003. The above said persons ceased to be the Directors of the Company without settling the amount. Similarly A3 also ceased to be the Board of Director from 28/11/2003. Later, he was re-appointed and became responsible for the day today activities of the Company. Similarly A12 was also the Board of Director from 27/09/1996 to 2011. She also participated in the day today affairs and activities of the Company and also signed in the deposit receipts.

4. It is further alleged that totally 65 complaints have been received and the cheated amount is to the tune of Rs.1.14 Crores. A2 to A12 are responsible for the management of the Company and the Company was registered under Companies Act and from 1996 till the closure of the Company, all the accused persons conspired together and devised various means to collect deposits, all the money that have been collected were converted to their own use. So with these allegations, final report has been filed.



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CrI.O.P.(MD)No.20796 of 2023

5. Seeking quashment of the same, A5 namely Ambika has filed this criminal original petition.

6. Heard both sides.

7. This criminal original petition is filed solely on the ground that she resigned from the Company, on 29/11/2003 and Form-32 was also uploaded; the resignation was ratified, on 03/12/2003 itself; So from the date of resignation, the petitioner ceased to be the Director of the Company; No specific allegations were also made against her in the final report; The disputed deposits were made on various dates after resignation of this petitioner; Since on the date of the maturity of the deposit amount, this petitioner ceased to be the one of the Directorship of the Company, She is not liable and cannot be prosecuted.

8. Per contra, it is submitted by the learned Government Advocate (Criminal side) that during the tenure of this petitioner as one of the Directors, she actively involved in the collection of the deposits from the public. So according to the 1st respondent herein, since the petitioner also involved in the collection of the deposits from the public, she is also responsible for the default or cheating as the case may be.



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Crl.O.P.(MD)No.20796 of 2023

9.It is further submitted that the transaction happened from 1996 onwards. Simply because the petitioner resigned in the year 2003, she cannot disown her responsibility.

10.Perusal of the records as well as reading of the statement of the witnesses also indicate that the deposits were collected from the public from 1996 onwards and without returning the money, they insisted the depositors to reinvest the same amount.

11.When there is specific allegation to the effect that there is pressure made upon the depositors to reinvest the money matured, then automatically the petitioner is also answerable to the default.

12.Whether after the resignation of the petitioner from the Directorship will absolve all the liabilities is a matter for consideration by the trial court at the time evidence.

13.It is not a case of the prosecution that only after resignation of this petitioner from the Directorship, the Company invited deposits from the public and thereafter cheated. So the contention of the



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CrI.O.P.(MD)No.20796 of 2023

petitioner will not lie at this stage. The trial must be taken to its logical conclusion. I find no reason to entertain this petition at this stage.

14.In the result, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petitions are closed.

07/12/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Special Court under
The Tamil Nadu Protection of Interest
of Depositors (In Financial
Establishment) Act, 1997,
Madurai.
- 2.The Deputy Superintendent of Police,
E.O.W.II (Finance Institution),
Nagercoil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.20796 of 2023

G.ILANGO VAN, J

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