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CrI.O.P.No.2485 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.2485 of 2024
and
CrI.M.P.Nos.1784 & 4080 of 2024

1.Soundariya
2.Tamilkannan

... Petitioners

Vs.

1.The State Rep.by
The Inspector of Police,
Economic Offence Wing,
Namakkal,
Namakkal District.

2.Sureshkumar.M

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records pertaining to Crime No.02 of 2023 on the file of the 1st respondent and quash the same as forged, illegal, unlawful and abuse of process by allowing the present Criminal Original Petition.

For Petitioners : Mr.R.Jayaprakash

For R1 : Mr.K.M.D.Muhilan
Government Advocate (CrI.Side)

For R2 : Mr.E.C.Ramesh

ORDER



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On 13.07.2023, First Information Report came to be registered by

Economic Offence Wing, Namakkal on the complaint given by one Sureshkumar.M, alleging that Mohanraj, Soundariya and her husband Tamilkannan had started a finance company under the name and style of M/s.Vadivelan bankers and started collecting deposits from the public by promising lucrative return. However, when the cheque given by them for interest and principle, it got bounced. When demanded the money, they evaded the payment with intention to cheat.

2. The complaint indicates that the petitioners had collected about Rs.35 Crores from several persons and cheated them. Hence necessary action must be taken against them and the assets accumulated by the accused persons using the money collected dishonestly has to be seized and forfeited as per the provisions of Tamil Nadu Protection of Interest of Depositors Act, 1997.

3. This complaint sought to be quashed in Crl.O.P.No.2485 of 2024 by the named accused persons on the ground that the complaint lodged by the Sureshkumar.M/the defacto complainant is a motivated complaint. It is a fabricated clandestinely instituted complaint. The



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petitioners claim that the father of the 1st petitioner Mr.Mohanraj started the finance company by name M/s.Vadivelan bankers. He died on 10.09.2020. After the demise of Mohanraj, his customers / depositors started pressurizing the family members of Mohanraj demanding their money. As a consequence, cheques were issued under duress. Contending that the 1st petitioner is a Professor in a Engineering College and the 2nd petitioner is her husband, they have nothing to do with the money transaction alleged to have been taken place between the complainant and the other depositors with said the Mohanraj. The petitioners have sought for quash of the complaint under Section 482 of Cr.P.C.

4. When the matter came up for admission, this Court, having satisfied, directed the respondent police to file a status report along with the particulars of the property that have been identified (purchased from the money collected from the depositors). For receipt of the status report, this Court adjourned the matter to 21.02.2024 stating that on receipt of status report Court will pass further order.

5. The 1st respondent police has filed status report on 21.02.2024. After receiving the status report, this Court found that the 1st



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respondent police has identified properties worth about Rs.30 Crores and the complaint so far received from 200 depositors is to the tune of Rs.35 Crores. Hence, this Court directed the petitioners to give an undertaking before the Court that the properties identified shall be utilized for the purpose of repaying back the amount. This Court has gone further to record that once undertaking is given, it will consider to pass further orders in this petition.

6. Pursuant to the order dated 29.02.2023, it appears that the 1st petitioner has filed an affidavit, same has been recorded and the relevant portion of the affidavit been extracted by this Court in its order dated 05.03.2024. Thereafter, this Court has gone further and issued certain directions which is extracted below:-

"2.It is clear from the above that the petitioners do not have any dispute with respect to some of the depositors. In so far as other depositors are concerned, the petitioners claim that they have to pay a sum of Rs.21,61,92,000/-. For more clarity, there shall be a direction to the learned counsel for the petitioners to provide two separate lists. The first list will consist of the depositors to whom



the payment has to be made with the particulars of their address and the amount that is payable to each of the depositors. The second list will contain the depositors from whom the petitioners are making their claim. In so far as this list is concerned, the particulars of those depositors and their address and the amount payable by them shall be mentioned. The supporting documents to make such a claim shall also be annexed along with this list.

3.An advance copy shall be served on the learned Additional Public Prosecutor to enable the learned Additional Public Prosecutor to take instructions in this case. Based on the above information, this Court will issue further direction in this case."

7. After misleading this Court that they are ready to repay the creditors, the counsel on record appearing for the petitioner has given a letter dated 18.06.2024 and 19.06.2024 to the Registrar General, High Court of Madras expressing his intention to withdraw Crl.O.P.No.2485 of 2024.

8. When the matter came up before this Court under the caption



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for withdrawal, the learned Government Advocate (CrI.Side) appearing for the respondent police submitted that after filing quash petition and expressing readiness to settle the dispute pursuant to the direction of this Court, the petitioner has furnished a list of properties in their hands which they are ready to allow the police to sell and realize the amount. Based on the details furnished in the list, the respective Sub Registrar been addressed to cooperate with the investigation and request to furnish details about the value and encumbrance. The SRO also requested to stop creating any transfer or encumbrance over those properties.

9. The learned counsel appearing for the defacto complainant states that after filing a petition to quash on an untenable ground and getting order from this Court to furnish details of properties, the petitioners have stall the investigation. Secondly, when the 1st accused was arrested on 21.03.2024, she citing the pendency of the quash petition, and the direction given by this Court got interim bail on the next day i.e., on 23.03.2024 and thereafter, the said interim bail was also made absolute on 06.06.2024 without any condition.

10. The list of properties furnished to the Investigating Officer



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does not show any sign of their intention to settle the due payable to the depositors and it was not furnished with bonafide intention to take moral responsibility as conceived by this Court in its order dated 29.02.2024. After misleading the Court, the attempt to withdraw the Criminal Original Petition is nothing but fraud on the Court.

11. Heard the learned counsels, records perused and as narrated above, this Court finds that the case under TNPID Act, 1997 which is a special Act to protect investors from dubious entrepreneur offering lucrative returns for the money been registered and under investigation. Under garb of challenging the registration of the complaint, certain orders been obtained from this Court which has taken the investigation to nowhere. When more than 200 persons been affected, the investigation cannot be interfered in the manner in which it is done in this case. This Court has thought fit that to meet the ends of justice, the above course of action is required, that cannot be aborted by the dubious attempt of the petitioners midway by withdrawing the petition.

12. Since the petitioners/accused through his counsel has expressed their intention to withdraw this quash petition, this Court make



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it clear that the petitioner shall not approach this Court till the filing of final report to quash the complaint which is under investigation

13. The 1st respondent police has to proceed with the investigation in the manner known to law without being carried away by the interim direction given by this Court in this Criminal Original Petition which is now been withdrawn at the instance of the petitioner themselves. This observations should not enure any benefit to the petitioners whatsoever while dealing with their bail or anticipatory bail.

14. The Investigating Officer is expected to proceed to implement the provisions of TNPID Act. It is stated that the 2nd accused is still at large, the Investigating Officer is directed to secure him and if any movable property available with the suspected accused, same has to be recovered and protected for distribution to the victims at later point of time.

15. with the above observation, this Criminal Original Petition is dismissed as withdrawn. Consequently, the connected Criminal Miscellaneous Petitions are closed.



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Index : Yes/No

Neutral Citation : Yes/No

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To

1.The Inspector of Police,
Economic Offence Wing,
Namakkal,
Namakkal District.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN,J.

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