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Crl.A.No.391 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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1.M/s.Dheeran Poultry Farms
Represented by
Sathishkumar (A2) and
P.S.Kumar @ Sasikumar (A6)

2.Sathishkumar

3.Boopathy

4.Abhi @ Abhiniya

5.P.S.Kumar @ Sasikumar

... Appellants

Vs.

State represented by
Inspector of Police,
Economic Offences Wing – II,
Erode,
Crime No.1024 of 2012.

... Respondent

Prayer:

Appeal filed under Section 374(2) of Criminal Procedure Code seeking to set aside the conviction and sentence imposed in the judgment dated 26.07.2021 made in C.C.No.28 of 2013, CNR.No.TNCB 06-000045-2013 on the file of Special Judge, Special Court under TNPID Act, Coimbatore by allowing this criminal appeal.



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For Appellants : Mr.T.Gowthaman
Senior Counsel
for M/s.V.Anandhamoorthy

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

J U D G M E N T

The criminal appeal has been filed seeking to set aside the judgment dated 26.07.2021 made in C.C.No.28 of 2013 by the learned Special Judge, Special Court under TNPID Act, Coimbatore.

2.The facts of the case is that the appellants are arrayed as A1, A2, A4, A5 and A6 in C.C.No.28 of 2013. A1 is the financial establishment. A2 and A3 are the partners, A4 is the brother of A3, A5 is the wife of A4. A4 and A5 are the administrators of the firm. A6 is the Manager. A2 to A6 are looking after the day to day administrative and financial affairs of A1 financial establishment and they are alleged to have canvassed and explained about their schemes to the depositors and collected deposits in the name of A1 by giving false promise that they will give higher rate of interest to the depositors i.e., 80% per annum approximately for the deposit amount and collected Rs.33,30,000/- from 14 depositors and after the maturity period, the



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accused defaulted in payment of interest as well as the principal deposit amount and upon complaint filed, the Inspector of Police, E.O.W.-II, Erode after investigation, filed final report against the accused for the offences punishable under Sections 120(B), 420 of I.P.C. and Section 5 of TNPID Act, 1997 before the Special Court under TNPID Act, Coimbatore and the case was taken on file as C.C.No.28 of 2013. The case as against A3 was split up as C.C.No.2 of 2016.

3.After trial, the case ended in conviction and A1, A2, A4 to A6 were sentenced as under:

A1 to pay fine of Rs.5,000/- for each offences and each counts under Section 420 of I.P.C. and Section 5 of TNPID Act (Rs.5,000/- X 14 counts X 2 offences = Rs.1,40,000/-). A2 was directed to pay the fine amount equally imposed on A1 firm, in default to undergo one year simple imprisonment for each offences;

A2, A4 to A6 each to undergo two years simple imprisonment and to pay fine of Rs.5,000/- for each counts (Rs.5,000 X 14 counts X 4 accused = Rs.2,80,000/-) under Section 120B of I.P.C., in default to undergo further one year simple imprisonment;

A2, A4 to A6 to undergo three years simple imprisonment and to pay fine of Rs.5,000/- for each counts (Rs.5,000 X 14 counts X 4



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accused = Rs.2,80,000/-) under Section 420 of I.P.C., in default to undergo further one year simple imprisonment;

A2, A4 to A6 to undergo three years simple imprisonment and to pay fine of Rs.5,000/- for each counts (Rs.5,000 X 14 counts X 4 accused = Rs.2,80,000/-) under Section 5 of TNPID Act, 1997, in default to undergo further one year simple imprisonment; A2 to pay Rs.4,20,000/- and A4 to A6 each to pay Rs.2,80,000/-. Total fine amount Rs.12,60,000/-.

4.Out of the said total fine of Rs.12,60,000/-, a sum of Rs.12,00,000/- was ordered to be distributed to the victims viz., P.W.2, P.W.6, P.W.8, P.W.9, P.W.10, P.W.11 and M.Senthil Kumar (except P.W.1, P.W.3 to P.W.5, P.W.7, P.W.12 and P.W.13 who settled their claims with the accused) as per their respective dues mentioned in the final report proportionately. Apart from that the D.R.O., Erode was directed to disburse the deposit made by the accused to the tune of Rs.14,45,000/- along with accrued interest, if any, to the victims viz., P.W.2, P.W.6, P.W.8, P.W.9, P.W.10, P.W.11 and M.Senthil Kumar (except P.W.1, P.W.3 to P.W.5, P.W.7, P.W.12 and P.W.13 who settled their claims with the accused) as per their respective dues mentioned in the final report proportionately.



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5.The sentences were ordered to run concurrently. The imprisonment already undergone by A2, A4, A5 and A6, if any, was ordered to be set off as per Section 428 of Cr.P.C. NBW was issued against A2, A4 to A6. Challenging the same, the present appeal has been filed.

6.The learned Senior Counsel appearing for the appellants submitted that though the appellants suffered punishment of imprisonment, as per Section 5A of the TNPID Act, an offence punishable under Section 5 may, before the institution of the prosecution, be compounded by the Competent authority or after the institution of the prosecution, be compounded by the Competent authority with the permission of the Special Court, on payment of the entire amount due to the depositors with or without interest. Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken or continued against the offender, in respect of the offence so compounded and the offender, if in custody, shall be discharged forthwith.



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7.The learned Senior Counsel appearing for the appellants further submitted that the accused already settled a sum of Rs.17,50,000/- for seven depositors viz., P.W.1, P.W.3 to P.W.5, P.W.7, P.W.12 and P.W.13, during trial through mediation and deposition were recorded. He further submitted that as on date a sum of Rs.27,24,732/- is available with the D.R.O., Erode and this Court may issue direction to the D.R.O., Erode to disburse a sum of Rs.15,80,000/- to the remaining seven depositors viz., P.W.2, P.W.6, P.W.8, P.W.9, P.W.10, P.W.11 and M.Senthil Kumar, as per their respective dues mentioned in the final report proportionately and issue further direction to the D.R.O., Erode, to disburse the balance amount of Rs.11,44,732/- to all the fourteen victims proportionately and prayed that this Court may pass appropriate orders compounding the offence.

8.The learned Additional Public Prosecutor raise no serious objection.

9.Heard the learned counsel appearing for the appellants as well as the learned Additional Public Prosecutor and perused the materials



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available on record.

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10.Considering the fact that the appellants/ accused already settled a sum of Rs.17,50,000/- for seven depositors viz., P.W.1, P.W.3 to P.W.5, P.W.7, P.W.12 and P.W.13, during trial through mediation; the fact that as on date a sum of Rs.27,24,732/- is available with the D.R.O., Erode and the appellants pray before this Court to issue direction to the D.R.O., Erode to disburse a sum of Rs.15,80,000/- to the remaining seven depositors viz., P.W.2, P.W.6, P.W.8, P.W.9, P.W.10, P.W.11 and M.Senthil Kumar, as per their respective dues mentioned in the final report proportionately and to issue further direction to the D.R.O., Erode, to disburse the balance amount of Rs.11,44,732/- to all the fourteen victims proportionately, this Court is of the considered view that the offence could be compounded since this Court has powers to compound the offence as per Section 5A of the TNPID Act.

11.Accordingly, this Court directs the D.R.O., Erode, to disburse a sum of Rs.15,80,000/- to the seven depositors viz., P.W.2, P.W.6, P.W.8, P.W.9, P.W.10, P.W.11 and M.Senthil Kumar, as per their respective dues mentioned in the final report proportionately. The



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D.R.O., Erode, is further directed to disburse the balance amount of Rs.11,44,732/- [Rs.27,24,732/- - Rs.15,80,000/- = Rs.11,44,732/-] to all the fourteen victims proportionately.

12.The conviction and sentence imposed on the appellants/accused vide judgment dated 26.07.2021 made in C.C.No.28 of 2013 by the learned Special Judge, Special Court under TNPID Act, Coimbatore, shall stand compounded on the above terms. The bail bonds, if any, executed by A2, A4, A5 and A6, shall stand terminated/discharged.

13.The criminal appeal is allowed on the above terms.

22.07.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Special Judge,
Special Court under TNPID Act,
Coimbatore.

2.The Inspector of Police,
Economic Offences Wing – II,
Erode,

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M.DHANDAPANI,J.

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