



Crl.R.C.No.1515 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1515 of 2024 and
Crl.M.P.No.12690 of 2024

V.Banu @ Banumathi

... Petitioner

Vs.

The Inspector of Police,
Economic Offence Wing,
Erode District.
(Cr.No.12 of 2012).

... Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records in Crl.M.P.No.1491 of 2024 in C.C.No.25 of 2012 dated 19.08.2024 on the file of the Court of Special Judge, Special Court under TNPID Act, Coimbatore and set aside the same.

For Petitioner : Mr.S.Selvakumar

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER



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Challenging the impugned order, dated 19.08.2024 in Crl.M.P.No.1491 of 2024 in C.C.No.25 of 2012 passed by the learned Special Judge, Special Court under TNPID Act, Coimbatore (Trial Court), this criminal revision case has been filed.

2.The learned counsel for the petitioner submitted that the respondent Police/prosecution filed a petition in Crl.M.P.No.1491 of 2024 in C.C.No.25 of 2012 seeking to dispense with examination of remaining 312 depositors and to mark their complaints and documents through the Investigating Officer/competent witness. The Trial Court without considering the objections of the petitioner/A4 and other accused and without any proper reason, allowed the petition filed by the prosecution. He further submitted that A1 is the Firm viz., M/s.Green Life Farms and Poultry, Chithode, Erode and A2 and A3 are its Directors. Except for being the wife of A2, the petitioner has got no connection with A1 Firm and its day to day activities and functioning. He further submitted that he was engaged by the petitioner's husband/A2 who is now defending for the petitioner as well as A2. Now the petitioner's husband fall in sick and he is taking treatment for



cancer and he is in critical condition. When the petitioner found out the stage of the case, at that time she came to know that the petitioner's husband/A2 not made arrangement for independent counsel for the petitioner as promised by him. On the other hand, it is the learned counsel for A2 and A4 who creates an impression as though the petitioner actively involved in the day to day affairs of A1 Firm. He further submitted that in this case, the prosecution cannot dispensed with 312 depositors and at the same time cannot mark their respective agreements through the Investigating officer. The delay of time cannot be a reason to deny the procedure established by law. Hence, he prays for setting aside the impugned order.

3.In support of his submissions, the learned counsel for the petitioner relied on the decision of this Court in the case of “***S.Sreenivasan v. The State Rep. by, The Inspector of Police, Economic Offence Wing, Team-II, Namakkal in Crl.O.P.No.21670 of 2022, dated 19.09.2022***” which was subsequently followed in Crl.O.P.No.28406 of 2022, dated 01.12.2022 (***M/s.Erode Green Farms & Poultry v. State represented by Additional Superintendent of Police, PEW, Erode Camp at Economic Offence Wing II, Erode***) wherein this Court had insisted that the cross examination of each



and every witnesses to be done at each stage and marking of respective agreements cannot be dispensed with for the reason of delay.

4.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and submitted that A1 in this case is a Firm, A2 to A5 are all running breeding country chicken poultry firm. They assured that they will make all necessary arrangements relating to feeds and maintenance cost and assured that if Rs.3,00,000/- is deposited, they will get 4% interest every month and after three years they would return the deposited amount in total. Based on the assurance, 1062 depositors deposited Rs.24,35,15,100/- in A1 firm. The accused A2 to A5 not returned the promised amount to the depositors. Thereafter, the complaint was lodged before the respondent Police and a case in Crime No.10 of 2012 registered. On completion of investigation, charge sheet filed and the same is pending trial in C.C.No.25 of 2012 before the Trial Court. There are totally 1095 witnesses, of which 1062 are depositors. So far 767 witnesses examined and only 84 witnesses cross examined and remaining 328 witnesses to be examined. Without examining the witnesses, now making objection for marking documents of the depositors is not proper. The Trial



Court considering the dilatory tactics adopted by the petitioner and other accused and also finding that for more than eleven years they have not cross examined any of the witnesses except 84 witnesses, allowed the petition filed by the prosecution. Now this revision filed only to further delay the progress of trial. Hence, strongly opposed for setting aside the impugned order.

5.Considering the submissions and on perusal of the materials, it is seen that the petitioner is A4 and wife of A2 and she is neither a partner nor a Director of A1 Firm. The petitioner is only a housewife of A2 and she was falsely implicated in this case which is the contention of the petitioner. The petitioner's husband/A2 fall in sick and till date she is taking care of him. Now the petitioner intended to engage an Advocate and to defend herself independently. It is for the petitioner to engage Advocate and proceed with the case. As regards examination of 312 depositors are concerned, the examination of all the witnesses are prerogative of the prosecution and it is for them to examine or dispense with the witnesses as per their choice. Marking documents of the depositors through the Investigating Officer would have to be qualified by way of relevancy and admissibility. The



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petitioner has got every right to make objection and question the same. At that time, it is for the Trial Court to decide and to pass appropriate orders on the objection raised.

6.In view of the above, this Court is not inclined to interfere with the well reasoned impugned order, dated 19.08.2024 in Crl.M.P.No.1491 of 2024 in C.C.No.25 of 2012 passed by the learned Special Judge, Special Court under TNPID Act, Coimbatore (Trial Court) and the same is hereby affirmed.

7.Accordingly, this criminal revision case stands dismissed. Consequently, connected criminal miscellaneous petition is closed.

01.10.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No



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



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M.NIRMAL KUMAR, J.

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