BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.10.2024

Pronounced on : 29.11.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.5459 of 2024

1.D.Aravarasan

2.Rathakrishnan

3.S.Prithiviraj

4.A.Mathivanan

5.Saranya ... Petitioners

Vs.

1.The Central Bureau of Investigation (CBI)
through its Joint Director,
Athikulam Main Road, Ramnad Reserve Line,
Athikulam, Madurai,
Tamil Nadu 625007.

2.The Superintendent of Police,
Ramanathapuram.

3.The Superintendent of Police,
Madurai.

4.Inspector of Police,
Economic Offence Wing,
Virudhunagar.

5.Inspector of Police,
Economic Offence Wing,
Madurai.

6.The District Inspector of Police,
District Crime Branch,
Ramanathapuram.

7.Balaji

8.Naga Nandhini

9.Subramanian

10.Bala Vignesh

11.Pounraj

12.Karthikeyan

13.Muthumari ... Respondents

Prayer : This Criminal Original Petition filed under Section 482 Cr.P.C., to direct the first respondent or to the appropriate agency to conduct investigation in Crime No.5 of 2023, on the file of the fourth respondent police and complaints pending before the respondents 2, 3, 5 and 6 on the said case as it involves serious white collar crime involving diversion of money as Crypto Currency which involves international transactions and affairs.

For Petitioners	: Mr.V.R.Shanmuganathan
For R1	: Mr.C.Muthu Saravanan Special Public Prosecutor for CBI
For R2 to R6	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to direct the first respondent or to the appropriate agency to conduct investigation in Crime No.5 of 2023, on the file of the fourth respondent and complaints pending before the respondents 2, 3, 5 and 6 on the said case as it involves serious white collar crime involving diversion of money as Crypto Currency which involves international transactions and affairs.

2. It is not in dispute that initially, District Crime Branch, Virudhunagar registered a case in Crime No.2 of 2023 on 15.01.2023 for the alleged offences under Sections 120(B), 406 and 420 IPC and subsequently, the said case was transferred to the file of the fourth respondent/Economic Offence Wing, Virudhunagar vide proceedings of

the Director General of Police, Chennai dated 19.06.2023 and that after receipt of the case file from District Crime Branch, Virudhunagar, the fourth respondent registered an FIR in Crime No.5 of 2023 on 11.09.2023.

3. The main contention of the petitioners is that the respondents 7 to 13 had indulged and formulated a scam on the banner of Future Generation Capital Private Limited, in which, they have defrauded several public innocents and misappropriated their hard earned money, that the respondents 7 to 13 having committed such a big scam and having misappropriated such a huge amount from the mass public have conveniently converted all the crime proceeds into several immovable properties in the name of companies and in their names and in the names of their families and also in the name of several known benamis, that though case came to be registered by the fourth respondent, there was no proper progress in the investigation and that therefore the petitioners were constrained to file the above petition seeking direction to conduct the investigation by the first respondent or any other appropriate agencies as the case involves serious white collar crime involving diversion of money as cryptocurrency.

4. The fourth respondent has filed a counter affidavit, wherein, it has been stated that originally there were 12 accused in the FIR and during investigation, they have added 19 more accused, that they came to know that Future Generation Capital Private Limited is a prime company and all other companies are the sisters concern of the said company, that they have searched 15 various places and offices belonging to the accused, that they have recovered 18 immovable properties and 5 movable properties, that the accused persons have invested part of the cheated amount in cryptocurrency like bitcoin, that since cryptocurrency and bitcoin are not regulated in our country, they could not be able to trace the money immediately, that they are taking necessary steps to trace the money invested in the cryptocurrency, that they are taking effective steps to secure the other absconding accused and had sent attachment proposals and approval was granted on 24.06.2024 and they will attach the properties under the TNPID Act and that since investigation is proceeding in proper way, the above petition is liable to be dismissed.

5. When the matter was taken up for hearing earlier, considering the submissions made by the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor, this Court has directed the

Superintendent of Police, EOW (South Zone) to file a status report. In pursuance of the same, the Superintendent of Police, EOW (North Zone), who is holding full additional charge of EOW (South Zone), has filed a status report. In the status report, it has been stated that their investigation reveals that money collected from the public was under various scheme which almost assuring higher rate of interest for the money deposited by them, that they came to know that 1180 persons have deposited huge amount of money which reached to the tune of Rs.122,13,23,823/- as per the bonds issued by the accused, which includes the assured higher rate of interest, that though there were 12 accused originally, they have added 19 more accused, totally 31 accused, out of which, 12 accused are companies and other 19 accused are Managing Directors and Directors, that they have examined all the depositors and recorded their statement under Section 161(3) Cr.P.C., that they have also sent one more attachment proposal for 8 immovable properties and movable properties worth of Rs.1,15,57,298/- on 12.07.2024 and that they have already put on hold a sum of Rs. 3,14,899/- by freezing 11 bank accounts of the accused besides identifying 35 immovable properties to an extent of 152.9 acres of land worth about Rs.4,54,83,747/-.

6. As rightly contended by the learned counsel appearing for the petitioners, since the reply given by the concerned police was not convincing, the Superintendent of Police, EOW (South Zone) was directed to appear and hence, the Superintendent of Police, EOW (North Zone), who is holding full additional charge for the post of the Superintendent of Police, EOW (South Zone), has appeared in person and filed the present status report. According to the prosecution, the accused 7 and 8 are the master minds but subsequently 8th accused was reported dead and that though the death of 8th accused was a setback in their investigation progress, the money laundering activities of the 7th accused between the inter-state and overseas level is a major setback. In the status report, it has been further stated that Financial Intelligence Unit of the Government of India has banned the performing of cryptocurrency trading in India in the month of September-2024 with a stipulation that the platforms which are willing to provide the data of the users to law enforcing agencies can perform their cryptocurrency trading, that they have been continuously enquiring the 7th accused and upon the disclosure he made, they have seized 4 hard disk and sent the same to the Forensic Lab through Court and are awaiting report, that they came to know that the 7th accused has

used 4 email accounts for cryptocurrency trading, that they are entering into the digital domain of the 7th accused and on the way to crack his password which used for the purpose of exchange platform and that they are going to approach the cyber crime for conducting Cyber Audit and Fund Trail immediately after receiving the forensic report of the hard disk.

7. Considering the status report and the submission made by the learned Additional Public Prosecutor, the way in which, investigation is proceeding, cannot be found fault with. But at the same time, despite lapse of more than 22 months, they have not recovered the cheated and misappropriated amount substantially but the Superintendent of Police would submit that since fresh depositors are approaching them, they are not in a position to conclude the investigation.

8. Considering the above, this Court is of the view that the fourth respondent is to be directed to file a preliminary charge sheet within a period to be stipulated and to proceed with further investigation. Hence, the fourth respondent is directed to file a preliminary charge sheet within a period of three months from the date of receipt of a copy of this order and

to proceed with further investigation and to complete the investigation at an earlier date.

9. With the above direction, this Criminal Original Petition stands disposed of.

29.11.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To
1.The Superintendent of Police,
Ramanathapuram.

2.The Superintendent of Police,
Madurai.

3.The Inspector of Police,
Economic Offence Wing,
Virudhunagar.

4.The Inspector of Police,
Economic Offence Wing,
Madurai.

5.The District Inspector of Police,
District Crime Branch,
Ramanathapuram.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

K.MURALI SHANKAR,J.

csm

Pre-Delivery Order made in
Crl.O.P.(MD)No.5459 of 2024

Dated : 29.11.2024