



Crl.O.P.(MD) Nos.6321 & 13627 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRL.O.P.(MD)Nos.6321 & 13627 of 2021

and

CRL.M.P.(MD)Nos.3628, 3629 & 7105 of 2021

1.Nagamalai

2.Salai

3.Kaladevi

: Petitioners in Crl.O.P.(MD)No.6321/21

Dhanalakshmi

: Petitioner in Crl.O.P.(MD)No.13627/21

Vs.

1.State Rep. by

The Inspector of Police,
Economic Commercial Wing-II,
Madurai, Madurai District.
(Crime No.8 of 2015).

2.M.Murugaraj

: Respondents in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, seeking to quash the final report in C.C.No.1 of 2020, on the file of the Sessions Judge, Special Court under T.N.P.I.D Act, Madurai.



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For Petitioner : Mr.V.Muthukamatchi
[In Crl.O.P.(MD)No.6321/21]
For Petitioner : Mr.V.Angusamy
[In Crl.O.P.(MD)No.13627/21]
For Respondent No.1 : Mr.M.Sakthi Kumar
Government Advocate [Crl. Side]
[In both Crl.O.Ps]
For Respondent No.2 : Mr.M.Ramu
[In both Crl.O.Ps]

ORDER

Seeking to quash the final report in C.C.No.01/2020, on the file of the Special Court under T.N.P.I.D Act, Madurai, the present petitions are filed by accused 3 to 6.

2.The case of the prosecution in a nut shell is as follows:

2.1.The de-facto complainant is a practicing Advocate. He lodged a complaint with the Inspector of Police, Economic offences Wing stating that all the accused received a sum of Rs.10,90,650/- from him and his friends stating that they are floating a chit fund scheme and that the amount would be repaid within 20 months with good interest rate. Accordingly, the de-facto complainant and his friends joined the unregistered chit fund firm run by accused No.2 and handed over a sum of Rs.10,90,650/-. When they demanded the accused to re-pay the amount, the accused threatened the de-facto complainant and his friends with dire consequences and did not return their amount which forced the de-facto complainant to lodge a



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complaint with the Inspector of Police, Economic Offences Wing and it was registered as FIR in Crime Number 8 of 2015 against the accused A1 to A5 for the offences under Sections 406 and 420 of the Indian Penal Code. After conducting investigation, the Inspector of Police, Economic Offences Wing II, Madurai filed a final report before the Special Court under T.N.P.I.D Act, 1997 Cases, Madurai in C.C.No.01/2022.

3.Mr.V.Angusamy, learned Counsel for A3 would contend that A3 is the wife of A2 and that she is not involved in the conduct of chit fund transactions and that there are no material evidence to show the involvement of A3 in the chit fund company.

4.Mr.V.Muthukamatchi, learned Counsel for A4 to A6 would contend that actually A2 alone received the entire amount and that A4 to A6 are living separately and that they do not have any connection with the unregistered chit fund firm. It is also his contention that A4 to A6 did not canvass and also did not obtain any amount from the depositors. Therefore, they prayed for quashing the final report in C.C.No.01/2020.

5.Per contra, Mr.M.Ramu, learned Counsel for the de-facto complainant would contend that the police after conducting proper investigation had laid the final report against the petitioner / accused. He also drew the attention of this Court to the statements recorded by the



police under Section 161(3) of the Code of Criminal Procedure and contended that there are specific allegations against all the accused and therefore, there are no valid reasons to quash the final report.

6.As far as the present case is concerned, A1 is the unregistered firm and A2 to A6 have floated a chit fund scheme. They have collected Rs.10,90,650/- from five depositors towards chit transaction and did not re-pay the said amount even after the maturity of the chit. The contention of the Counsels appearing for the petitioners A3 to A6 is that the prosecution had not adduced any evidence to show that they actually canvassed for collecting money from the five depositors. However, the case of the de-facto complainant is that a sum of Rs.10,90,650/- was paid to the accused 2 to 6 by him and his friends on various dates.

7.It is relevant to extract Section 5 of 'the Tamil Nadu Protection of Interests of Depositors [In Financial Establishments] Act, 1997' [hereinafter shall be referred to as 'TNPID Act'] which reads as follows:

"5.Default in repayment of deposits and interest honouring the commitment. -

Notwithstanding anything contained in Chapter II, where any Financial Establishment defaults the return of the deposit or defaults the payment of interest on the deposit, or fails to return in any kind, or fails to render service for which the deposit has



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been made, every person responsible for the management of the affairs of the Financial Establishment shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to one lakh of rupees and such Financial Establishment is also liable for a fine which may extend to one lakh of rupees."

8. Thus, it is seen from Section 5 of the TNPID Act that every person responsible for the management of the affairs of the financial establishment shall be held liable for the offences committed under the Act. The contention of the petitioners that they did not canvass and collect deposits is a disputed question of fact which can be decided only by the trial Court after full-fledged trial.

9. The term 'Deposit' under Section 2(2) of the Act will also take within its fold the amount received by any person or entity in the name of subscription for a chit transaction and if the subscription amount is not repaid and default is committed, naturally it becomes an offence under Section 5 of the TNPID Act. Moreover, in the instant case, the de-facto complainant and his friends, as already observed, had deposited Rs.10,90,650/- and accused 2 to 6 have not repaid the said amount. Merely because accused A4 to A6 are residing separately, it cannot be stated that they are not involved in the affairs of the first accused firm. However, this is a matter which has to be decided only after the conduct of trial and at



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this stage, I do not find any reason to quash the final report on the grounds raised by the present petitioners.

10.Accordingly, both the Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

06.02.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MR



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To

- 1.The Sessions Judge,
Special Court under T.N.P.I.D Act, 1997 Cases,
Madurai.

- 2.The Inspector of Police,
Economic Commercial Wing-II,
Madurai, Madurai District.

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



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R.HEMALATHA., J.

MR

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