



Crl.O.P.(MD).Nos.8477 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.03.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).Nos.8477 of 2021
and
Crl.M.P(MD).Nos.4360 and 9484 of 2021

1. Neethimani

2. Menaka

... Petitioners/Accused

Vs.

1. Arunkumar

2. The Deputy Superintendent of Police,
Economic Offences Wing,
Ramanathapuram.

... Respondent/Complainant

(R2 is suo-motu impleaded as per order of the Court dated
27.04.2023 in Crl.O.P(MD).No.8477 of 2021, 22744 of
2022 and 16144 of 2021 by K.K.R.K.J)



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PRAYER: Criminal Original Petition has been filed under Section 407 of Cr.P.C., to transfer the criminal case in S.T.C.No.6 of 2021 pending on the file of the learned Judicial Magistrate No.1, Ramanathapuram, to TNPID Court, Madurai and to hear along with the Crime No.2 of 2020 on the file of EOW Ramand, pending on the file of TNPID, Madurai.

For Petitioners : Mr.S.Prabakaran,
Senior Counsel for
Mr.Karthikeyan Sekar

For Respondents : Mr.A.John Vincent for R1
: Mr.S.Ravi,
Additional Public Prosecutor,
for R2

ORDER

The petitioners filed this petition to transfer the criminal case in S.T.C.No. 6 of 2021 pending on the file of the learned Judicial Magistrate No.1, Ramanathapuram, to TNPID Court, Madurai, to hear along with the Crime No.2 of 2020 of Economic Wing, Ramanathapuram, pending on the file of TNPID, Madurai.

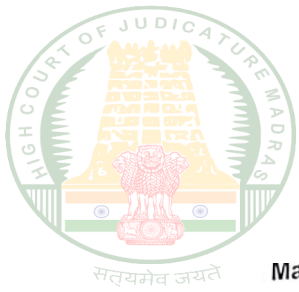


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2.The grievance of the petitioners is that the first respondent lodged a private complaint, against the petitioners, for the offence punishable under Section 138 of Negotiable Instruments Act and the case was taken on file by the learned Judicial Magistrate No.1, Ramanathapuram, as S.T.C.No.6 of 2021. Further for the same cause of action, the respondent filed another complaint and FIR in Crime No.347 of 2020 has been registered and the same was renumbered as Crime No.2 of 2020 for the offence under Sections 406, 420, 294(b) and 506(ii) of IPC, on the file of the Economic Offence wing, Ramanathapuram. Hence, he seeks to transfer the case.

3.During the course of the hearing on 27.04.2023, this Court *suo motu* impleaded the Deputy Superintendent of Police, Economic Offences Wing, Ramanathapuram, as the second respondent. In order to ascertain the fact of criminal case pending against the petitioners/Bullion Fintech LLP at Chennai, this Court called the impleaded officer to file a report and the said officer filed periodical report for the last few years about the investigation conducted and filed status report before this Court. The relevant paragraph reads as follows:



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Manickam in this case on 17.11.2023. After conducting enquiry, they were sent to Judicial Custody to the learned TNPID Judge, Madurai on the same day. On enquiry, the accused persons voluntarily made confession stating that the A2 Arockiya Rajkumar S/o. Manickam purchased a land property measuring to an extent of 134.95 Sq.m in S.No.69/3 situated at PattinamKathan Village, Ramanathapuram District by using the money cheated from the investors. Further, he confessed that he also purchased various properties in favour of his wife Stella Mary as follows; 1. The land properties measuring to a total extent of 78 cents in S.Nos.327/7A, 327/7B & 327/10 situated at Vazhuthur Village, Ramanathapuram District. 2. A land property measuring to an extent of 22.85 cent in S.No.327/7 situated at Vazhuthur Village, Ramanathapuram District. The total value of above properties according to the Market Value would come around Rs.85,00,000/-. The above confession was one and the same reflecting the details already furnished by the Inspector General of Registration, Mylapore, Chennai. The other proceedings to freeze the above properties are yet to be initiated.

26. I respectfully submit that I took charge as investigation officer in the present case and I conducted enquiry with other 19 depositors and later obtained complaints. Then, I recorded their statements under 161 (3) Cr.P.C. As of their statements I come to know that the accused persons cheated an amount to a tune of Rs. 1,11,65,000/- from the above 19 new witnesses. In this case, totally there are 766 witnesses enquired so far. Based on their statements it is found that the accused persons in this case have committed cheating of Rs.70,63,41,000/- (Rupees Seventy Crore Forty Five Lakh Twenty One Thousand Only)

27. I most humbly submit that after my appointment as Special Investigation Officer, I identified a property to a tune of 1. Rs.2,87,50,000/- from the Accused persons Neethimani, Menaka and Vasuki W/o. Murugesan. 2. Rs.85,00,000/- from the accused person Arockiya Rajkumar concealed in favour of his wife Stella Mary. 3. Rs.2,85,00,000/- from the agents namely Joseph Paribalan, Sivabalan, Arun Sankar concealed in the name of his wife Mohanapriya. At the instance of the recovery made by me the total amount of Rs. 6,57,50,000/- came to light.

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Further, the then Investigation Officer recovered Rs.1,53,10,242/- in respect of movable properties and Rs.15,19,76,145/- in respect of immovable properties. The petitioners alone are concerned, they said to have committed a cheating of Rs.23,30,36,387/- from the investors found in my investigation.

28. I submit that I have also sent a requisition letters to the HDFC Bank, Indus Ind Bank, Karur Vysya Bank and Axis Bank regarding the transaction summary of the A3 – Neethimani. Since the above banks are situated at Chennai, the requisition letters were sent through post. In turn, the banks sent the transaction details of the A-3, which reflects the purchase of the property at East Coast, Chennai and other properties. I further request the above banks about the transactions details of A-3 Neethimani's companies viz., Tharun Pictures, Chennai and SiddhuNidhi Ltd., Salem.

29. I respectfully submit that the above movable, immovable properties recovered from the accused persons in this case are just meager comparing with the money involved in this case. The petitioners herein invested more number of money in movable and immovable properties engaging their friends and relatives commit benami transactions based on the evidences and witnesses enquired in this case so far.

30. I submit that on perusal of the investors list, among the total number of 4023 investors there have been the particulars of 2769 investors and their relatives reflecting as of the 766 complaints.

31. I humbly submit that since the unavailability of the contact details of the remaining 1254 investors in the above list, a public notice was also published in the newspapers such as Dinamalar, The Hindu, Malai Murasu, Crime News 7, Pulanaivu Express informing about the Grand Mela scheduled to be conducted on 25.11.2023, for those who failed to make a complaint so far. While so, there are another 32 complaints that are registered on behalf the investors and their

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relatives who lost an amount to a tune of Rs.3,99,98,000/- pertaining to 126 investments. Totally there are 798 witnesses so far accused cheating amount Rs.74,63,39,000/- (Rupees Seventy Four Crore Sixty Three Lakh and Thirty Nine Thousand Only). Among the total 4023 investors 2895 investments have been included. The balance 1,128 investors remain. Another Public notice was published in Dinamalar and Crime News 7 on 02.12.2023 to receive complaints from the remaining depositors.

32. I most respectfully submit that even then, the remaining 1,128 investors contact details are yet to be collected since their names are alone available in the depositors list. Hence, in order to collect the above details I enquired the A2-Anand and he stated that only the name details are available in their office computer and no contact details are available. Therefore, I am still publishing the Public Notices periodically to ensure that the remaining investors would be aware of the same.

33. I further submit that since the money involved in this case is huge, the accused persons also deputed many persons to dispose of the investments deceived from the investors. To our utter shock and dismay, the petitioners along with other accused persons committed in concealment of their properties cheated from the investors, we are unable to complete the investigation yet.

34. Thus I submit the above status report according to the order of this Hon'ble Court to be filed on or before 12.12.2023. As of now, the EOW, Ramanathapuram is investigating into the present case. There is no unwanted delay or lacunae taken on place so far. It is pertinent to mention here that the superintendent of Police, EOW, South Zone has already given a direction to the Investigation officer to file a Final report in this case, within a month. The investigation of the present case is under progress. The final report yet to be filed before the learned TNPID Judge, Madurai. Therefore, the case in Crime No.02/2020 on the file of EOW, Ramanathapuram is still pending for the reasons stated above.


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4. In view of investigation being conducted by the second respondent/Deputy Superintendent of Police, (I/C of Ramanathapuram District) Economic Offences Wing, (Finance Institution) Kanyakumari District at Nagercoil, this Court is inclined to issue a direction to the second respondent/Officer to complete the investigation and collect all the details of the properties mentioned in the status report and file the final report before TNPID Court, Madurai.

5. To consider the plea of the transfer of the case in S.T.C.No.6 of 2021 and to hear along with the Crime No.2 of 2020, it is relevant to extract Section 6(3) and 6(4) of the Act, 1997:-

6(3) Any pending case in any other court to which the provisions of this Act apply shall stand transferred to the Special Court.

6(4) When trying any case, the Special Court may also try any offence, other than an offence specified in section 5, with which the accused may, under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) be charged, at the same trial.



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6.Upon reading the above provision and also the specific case of the respondent herein who has filed the case in S.T.C.No.6 of 2021 on the basis of the cheque issued to discharge the liability of the depositors, this Court is inclined to transfer the case S.T.C.No.6 of 2021 on the file of the learned Judicial Magistrate No.1, Ramanathapuram to the Special Court Constituted under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997, Madurai and conduct the trial in S.T.C.No.6 of 2021 independently.

7.Since the case in S.T.C.No.6 of 2021 is pending for a many years and also the first respondent has invested the amount in the financial institution long before in the year 2018, this Court declines the relief to hear along with the crime No.2 of 2020 for the reason that the investigation in the said crime number is in progress.

8.Accordingly, this Criminal Original Petition is Partly allowed on the following terms:

(i)the case in S.T.C.No.6 of 2021 is hereby directed to be transferred from the file of learned Judicial Magistrate No.1, Ramanathapuram to the file of



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Special Court for the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, Madurai.

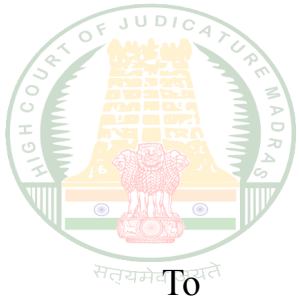
(ii) the learned Special Judge is hereby directed to dispose of the S.T.C.No. 6 of 2021 within a period of nine months from the date of receipt of the copy of this order,

(iii) the prayer to hear the case in S.T.C.No.6 of 2021 along with the crime No.2 of 2020 is dismissed.

Consequently, the connected criminal miscellaneous petitions are closed.

26.03.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To
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1. The Learned Judicial Magistrate No.1,
Ramanathapuram.
2. The Learned Judge, TNPID Court, Madurai.
3. The Deputy Superintendent of Police,
Economic Offences Wing,
Ramanathapuram.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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