IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2025

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.Nos.279, 307, 308, 310 & 447 of 2023
and
Crl.M.P.No.3885 of 2023

1.G.Saravanakumar 2.P.Liyakathali	....	Appellants in Crl.A.No.279 of 2023
P.Vijayabharathi	....	Appellant in Crl.A.No.307 of 2023
Muruganantham	....	Appellant in Crl.A.No.308 of 2023
R.Mathaiyan	....	Appellant in Crl.A.No.310 of 2023
V.Muthukumar	....	Appellant in Crl.A.No.447 of 2023

Vs

The State by Inspector of Police, EOW II, Namakkal District.	....	Respondent in all Crl.As

Common Prayer: Criminal Appeals filed under Section 374(2) of Criminal Procedure Code, praying to set aside the conviction and sentence imposed on the appellants by the Judgment dated 06.03.2023 passed in C.C.No.4 of 2015 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, by allowing the present criminal appeal.

For Appellant -1 (in Crl.A.No.279 of 2023)	: M/s.D.Jeevitha
For Appellant – 2 (in Crl.A.No.279 of 2023)	: Mr.M.Devaraj
For Appellant (in Crl.A.Nos.307 & 308 of 2023)	: Mr.S.Mothilal Nehru
For Appellant (in Crl.A.No.310 of 2023)	: Mr.E.Ashok Kumar for Mr.Ravishankar Vallatharasu
For Appellant (in Crl.A.No.447 of 2023)	: Mr.S.N.Arun Kumar
For Respondent (in all Crl.As)	: Mr.S.Raja Kumar Addl. Public Proseuctor

COMMON JUDGMENT

These Criminal Appeals have been filed as against the Judgment dated 06.03.2023 passed in C.C.No.4 of 2015 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, thereby convicted the appellants for the offences punishable under Sections 120B read with 420 of IPC, 406 of IPC and Section 5 of the TNPID Act, 1997.

2. The case of the prosecution is that the accused conspired together with a common intention to collect huge sums of money as deposits from the general public by introducing various schemes, thereby

inducing them in the name of the first accused/Financial Establishment viz., Sunrays Trading Corporation, with the promise of making easy money. They introduced three plans. As per the Plan "A", on receipt of Rs.1,40,000/- per month for 15 installments, at the end of 15th installment, the depositor would be given 1 kg of gold and 20 grams of gold coins as special gift. Further, on payment of Rs.1,05,000/- per month for 20 months, the depositor would be given 1 kg of gold and 20 grams of gold coins as special gift. As per the Plan "B", on receipt of Rs.70,000/- per month for 15 installments, at the end of 15th installment, the depositor would be given ½ kg of gold and 10 grams of gold coins as special gift. As per the Plan "C", on receipt of Rs.35,000/- per month for 15 installments, at the end of 15th installment, the depositor would be given 250 grams of gold and 5 grams of gold coins as special gift; further, on payment of Rs.26,250/- per month for 20 months, the depositor would be given 250 grams of gold and 5 grams of gold coins as special gift. It is further case of the prosecution that, under the aforesaid plans, during the year 2009, the accused had collected a sum of Rs.74,41,384/- from 46 depositors in the name of the first accused and failed to make the assured returns and misappropriated the said amount.

3. Based on the complaint, the respondent registered an FIR

in Crime No.1 of 2014 for the offences punishable under Sections 120B, 406, 420 of IPC and Section 5 of Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997. After completion of the investigation, a final report was filed and the same was taken cognizance by the Trial Court in C.C.No.4 of 2015.

4. In order to bring home the charges, the prosecution had examined P.Ws.1 to 50 and marked Exs.P1 to P194. On the side of the accused, D.Ws.1 to 5 were examined and Exs.D1 to D32 were marked.

5. On perusal of the oral and documentary evidence, the Trial Court found the accused 2 to 7 guilty of the offences 120B, 406, 420 of IPC and Section 5 of the TNPID Act, 1997. A2 to A7 were sentenced to undergo seven years rigorous imprisonment and each to pay a fine of Rs.7,000/- (7,000/- x 45 counts), in default, to undergo further period of one and a half years rigorous imprisonment for each count, for the offence punishable under Section 120B read with 420 of IPC. Further they were convicted and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.7,000/- (7,000/- x 45 counts), in default, to undergo further period of one and a half years rigorous

imprisonment for each count, for the offence punishable under Section 420 of IPC. They were also convicted and sentenced to undergo seven years rigorous imprisonment and each to pay a fine of Rs.7,000/- (7,000/- x 45 counts) in default, to undergo further period of nine months rigorous imprisonment for each count, for the offence punishable under Section 406 of IPC. In addition, they were convicted and sentenced to undergo ten years rigorous imprisonment and each to pay a fine of Rs.7,000/- (7,000/- x 45 counts) in default, to undergo further period of two years of rigorous imprisonment for each count, for the offence punishable under Section 5 of the TNPID Act, 1997. Aggrieved by the same, the present Criminal Appeals have been filed by the appellants.

6. The learned counsel appearing for the appellants/A4 to A7 in Crl.A.Nos. 279, 307 and 310 of 2023 would submit that they neither working partners nor acted as an agent for the first accused to constitute any of the offences as alleged by the prosecution. A4 to A7 had deposited their respective amounts as other victims and they were paid returns for some period. However, finally they were not settled the full amount. The entire case of the prosecution as against A4 to A7 is that they acted as agent of A1 concern and canvassed other depositors to

deposit under Plans 1 to 3, thereby receiving commissions. However, the said allegation is not supported by any independent eye witness. In fact, the Investigating Officer categorically admitted that there is absolutely no proof to show that A4 to A7 received any commissions, though such an allegation was mentioned in the charge sheet. A4 had deposited a sum of Rs.8,90,000/- and A7 had deposited Rs.20,73,250/-, for which they were paid certain profits. The fixed deposit receipts were marked as Exs.D8, D9 and D27. Even then, the Trial Court mechanically convicted A4 to A7 also along with the other accused persons.

7. The learned counsels appearing for the appellants/A2 & A3 in Crl.A.Nos.308 & 447 of 2023 submitted that the prosecution has failed to prove any charges against them beyond any reasonable doubt and therefore, the benefit of doubt ought to have been extended in their favour. They further submitted that no witness had deposed that A2 & A3 had misappropriated any amount in entriety. They never induced any depositors to deposit, not did they canvass deposits on before of the first accused. On the contrary, the depositors had approached the agents, and only through such agents, the amounts were deposited with the first accused. Therefore, A2 and A3 are nothing to do with the allegations as

alleged by the prosecution.

8. The learned Additional Public Prosecutor appearing for the respondent submitted that all the depositors had categorically deposed that it was only through A4 to A7 that they were introduced A2 and A3 and induced them to deposit. Accordingly, A4 to A7 acted as agent for A1 to A3 and also received commissions for the deposits made by the victims. He further submitted that the accused had collected totally a sum of Rs.74,41,384/- from 46 victims and failed to return the same as assured. Therefore, the prosecution had categorically proved all the charges and the Trial Court rightly convicted the appellants. Hence, the appeal does not warrant any interference by this Court.

9. Heard the learned counsel appearing on either side and perused the materials available on record.

10. There are totally seven accused in this case, in which, the appellants are arrayed as A2 to A7. The first accused concern was owned by A2 , in which, A3 was a partner. According to the case of the prosecution, A4 to A7 acted as agents of A1. A1 to A3 floated plans A, B and C. Accordingly, they had induced the general public to deposit the

amounts under those schemes. The general public applied those schemes and deposited their hard earned money to the tune of Rs.74,41,384/-, which was not returned to them. The victims were examined by the prosecution as P.Ws.1 to 45 and their fixed deposit receipts and the complaints were marked as exhibits. Some of the depositors deposed that A4 to A7 also made deposit with the first accused through A2 & A3 and further suggested to them to deposit with the first accused. Based on such inducement, the other victims deposited their respective deposits.

11. On the side of A4 to A7, D.Ws.1 to 5 were examined and Exs.D1 to D27 were marked. On perusal of the depositions and the exhibits reveals that A4 to A7 also made deposits with the first accused for which they were issued receipts. So far as their deposits are concerned, they were paid some returns through their respective accounts. Further, they had lodged complaints for default committed by A1 to A3. However, the Trial Court concluded that A4 to A7 acted as agents of A1 to A3 and had induced to the general public to deposit their hard earned money with the first accused.

12. Admittedly, A4 to A7 were neither employees of A1

nor working partners along with A2 and A3. Though the prosecution specifically alleged that they acted as agents, no material evidence hs been produced to substantiate that claim. On the contrary, the receipts and complaints reveals that they were also victims and they had made deposit with A1. In view of the deposit made by them, they were paid some returns. Therefore, the Trial Court wrongly construed that A4 to A7 received commissions for the deposits made by the other victims. Further, A4 to A7 did not acquire any movable or immovable assets out of the money allegedly collected from the depositors. They had not issued any receipts or executed any documents in favour of the victims. There is no proof to show that they were also actively involved in the day to day affairs of the first accused concern.

13. The Investigating Officer was examined as P.W.49. On perusal of his cross examination by A4 to A7, he categorically admitted that there is no documents to show that A4 to A7 acted as agents of first accused. Though he deposed that certain amounts were credited to their bank accounts, the same was commission. There is absolutely no evidence to show that they had received the said amount as commission for the deposits made by the other victims. On the contrary, the

documents marked on the side of the defence clearly prove that A4 to a7 themselves were depositors, who had received returns for their deposits. Therefore, the prosecution miserably failed to prove any of the charges as against A2 to A4. Insofar as A2 and A3 are concerned, who are the appellants in Crl.A.Nos.447 and 308 of 2023, they were working partners of A1. In fact, the second accused was the proprietor of the first accused. They alone had induced the public and floated the schemes on behalf of the first accused. They issued pamphlets and thereby induced the general public to deposit their money under the said plans.

14. A perusal of the deposit receipts reveals that A2 and A3 had signed all the receipts on behalf of the first accused concern.

They amassed wealth from the deposits collected from the general public and cheated the depositors. There is clinching evidence against A2 and A3 and the prosecution has proved all the charges against them beyond any reasonable doubt.

15. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views

are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court failed to properly appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court in respect of all the charges against A4 to A7 alone cannot be sustained and are liable to be set aside.

16. In view of the above, insofar as the appellants in Crl.A.Nos.308 and 447 of 2023 are concerned, the conviction and sentence imposed by the Trial Court against A2 and A3 are hereby confirmed. Accordingly, **Crl.A.Nos.308 and 447 of 2023 stand dismissed.**

17. Insofar as the appellants in Crl.A.Nos.297, 307 & 310 of 2023 are concerned, the conviction and sentence imposed by the Trial Court against A4 to A7 are hereby set aside. **Accordingly, Crl.A.Nos.297, 307 & 310 of 2023 are allowed.** The appellants/A4 to A7 are acquitted of all charges in C.C.No.4 of 2015 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore. Fine

amount, if any paid, shall be refunded to the appellant forthwith. Bail bonds, if any executed, shall stand cancelled. The appellants are also permitted to withdraw amounts, if any deposited to the credit of the Trial Court while suspending the sentence, by way of appropriate application. Consequently, connected miscellaneous petition is closed.

03.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

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

2. The Inspector of Police,
EOW II,
Namakkal District.

3. The Public Prosecutor
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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Crl.A.Nos.279, 307, 308, 310 & 447 of 2023

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