BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.05.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.OP(MD)Nos.9994 of 2024, 17681 of 2023

S.Athista Raj : Petitioner in Crl.OP(MD).9994/2024

V.Ravichandran : Petitioner in Crl.OP(MD).17681/2023

Vs.

1.The Inspector of Police,
Economic Offences Wing,
Madurai District.
Cr.No.2 of 2017

2.The Additional Director General of Police,
Economic Offence Wing,
Tamil Nadu. : Respondents in Crl.OP(MD).9994/2024

[R.2 *suo-motu* impleaded vide order dated 31.07.2024]

1.The Superintendent of Police,
Economic Offence Wing,
Chennai.

2.The Deputy Superintendent of Police,
Economic Offence Wing,
Madurai.

3.The Inspector of Police,
Economic Offence Wing,
Madurai.
Cr.No.2 of 2017 : Respondents in
Crl.OP(MD).17681/2023

PRAYER in Crl.OP(MD).9994/2024: Petition filed under Section 482 CrPC seeking a direction to the respondent Police to complete the investigation and file the final report in Crime No.2 of 2017 dated 09.06.2017 within a stipulated time limit.

PRAYER in Crl.OP(MD).17681/2023: Petition filed under Section 482 CrPC seeking a direction to transfer the investigation in Crime No.2 of 2017 from the file of the third respondent Police and entrust the same to some other agency.

For Petitioners : Mr.J.Jeyakumaran
in Crl.OP(MD).9994/2024

Mr.G.Mathavan
in Crl.OP(MD).17681/2023

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

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COMMON ORDER

The petitioners are one of the victims in Crime No.2 of 2017 on the file of the Economic Offence Wing, Madurai. Crl.OP(MD)No.9994 of 2024 is filed by the petitioner seeking a direction for expediting the investigation and to file the final report within a stipulated time limit. Crl.OP(MD)No. 17681 of 2023 is filed by the petitioner seeking a direction to transfer the investigation to some other agency, citing the delay in concluding the investigation.

2.It is a case of cheating. The accused company, M/s.APSAL India Ltd., and other sister concerns, had collected deposits from a large number of persons to fund its business operations. The company offered that either it will return the matured amount with huge interest or it would allot a house site. But, they have cheated the depositors. Hence, the case was registered in Crime No.2 of 2017 for the offence u/s.120b, 406, 420, 511 IPC, Section 3, 4 of Prize Chit & Money Circulation Schemes (Banning) Act.

3.Learned Government Advocate (Crl. Side), on instructions, submitted that the investigation officer, on receipt of complaints, took swift action to freeze the bank accounts, to stop the further alienation of properties by the accused, to identify the victims, etc. However, the accused persons have filed WP(MD)Nos.11818 to 11821, 11833 to 11836 of 2018 before this Court and got their accounts de-freezed. In the meantime, some of the victims have filed WP(MD)Nos.26735, 27067, 27280 of 2019 before this Court, wherein, this Court, by order dated 12.03.2020, has appointed a Committee headed by a retired Judge of this Court to resolve the issue by returning the depositors. The Inspector of Police, Economic Offence Wing, Madurai, from the side of the investigation agency and one Mr.Chandrasekar, the Manager of the accused company, from the side of the Company were directed to assist the Committee.

4.According to the learned Government Advocate, since the formation of Committee, the investigation agency has assisted the Committee alone. While so, the Chairman of the Committee has sent a report dated 04.09.2023, recusing from the Committee, owing to non cooperation by the accused company. Therefore, they have filed WMP(MD)Nos.26219, 26220, 26221 of 2023 before this Court seeking modification / clarification as to the further course of action to be taken.

5.This Court paid its anxious consideration to the rival submissions made on either side and perused the materials placed on record.

6.It appears that this Court has passed the order dated 12.03.2020, pursuant to the undertaking given by the accused that they would co-operate the investigation agency as well as the Committee appointed by this Court to settle the issue by disposing the properties in their names. It appears that the Hon'ble Judge / Chairman of the Committee did some work, pursuant to the order of this Court, settled 291 victims. However, the Hon'ble Judge could not complete the task, due to non-cooperation from the accused. The Hon'ble Judge, by recording the reasons, has recused from proceeding further. The reasonings recorded are extracted as under:-

"7.I submit that the company Director is not co-operating and not taking effective steps for sale of properties and even if sold, it is not

possible to settle even a substantial portion of the total amount due to depositors.

8.According to Director Mr.Selvakumar some more properties in the name of the company are available but not shown in the list before the Court.

9.This Committee is ineffective and without powers not workable, unless, the Company sincerely comes forward to settle the dues to the depositors."

7.It appears that even after the recusal by the Hon'ble Judge, the accused has not taken any initiation to settle the amount. The respondent Police has also not filed the final report, taking shelter on the earlier order passed by this Court dated 12.03.2020. In such circumstances, the petitioners have now moved these petitions.

8.The Tamil Nadu Protection of Interests of Depositors (TANPID) Act, 1997, was enacted to regulate financial establishments that were exploiting depositors by promising high returns and subsequently defaulting on repayments, leading to widespread public distress. Many such entities had emerged in Tamil Nadu, targeting middle-class and poor investors often leaving them without any effective recourse, leading to societal and economic suffering of the common public. To address this crisis, the government introduced the legislation in public interest to protect depositors' rights. The Economic Offences Wing in the State of Tamil Nadu started functioning with effect from 01.01.2000.

9.As held in ***Thiru Muruga Finance and Others v. State Of Tamil Nadu*** [***AIR 2000 MAD 137***], the very essence of the Act is to ameliorate thousands of depositors from the clutches of the unincorporated trading establishments and to provide for speedy recovery of the matured/defaulted amount.

10.In ***Mrs. S. Bagavathy v. State of Tamil Nadu*** [***AIR 2007 (NOC) 1147 MAD***]**,** the Full Bench of the Madras High Court noted that the victim depositors mostly belong to the lower and middle class and includes senior citizens, widows, pensioners, retired government officials and the disabled, who were lured by unsustainable promises of high rates of interest. The

Court expressed hope that vigorous enforcement of the legislation would yield fruits to the longing depositors. However, this hope has not materialised and the implementation of this welfare legislation continues to remain in slumber.

11.Affirming the above principles, the Hon'ble Supreme Court in ***K.K. Baskaran vs State Rep By Its Secretary*** [***(2011) 3 SCC 793***] observed that conventional legal proceedings incurring huge expenses of court fees, advocates' fees, apart from other inconveniences involved would not have made it possible for the depositors to recover their money. Therefore, the Act envisions strong steps to enable speedy recovery of the depositors' money.

12.The report of the Hon'ble Judge / Chairman of the Committee disclose that there is no cooperation on the part of the accused Company. To be noted, the accused have filed an undertaking affidavit before this Court to get relief. If they failed to honour their undertaking after obtaining a relief from this Court, such a conduct cannot be countenanced. Therefore, the investigation agency shall file necessary application before the trial Court to cancel the bail / anticipatory bail granted in Crime No.2 of 2017.

13.This Court is of the opinion that the appointment of Committee does not preclude the investigation agency from proceeding with the crime investigation, for which, a case has already been registered in Crime No.2 of 2017. There is no explicit order from this Court in WP(MD)Nos.26735, 27067, 27280 of 2019, dated 12.03.2020, stalling the investigation or prohibiting the investigation agency from proceeding with the case registered in Crime No.2 of 2017. All that this Court has ordered is for appointing a Committee to ensure that the claims of the depositors are settled as expeditiously as possible. Therefore, there is no clarification required.

14.In the event, if the investigation agency wants clarification, they ought to have obtained the same from the Writ Court itself. Or at least, they could have requested an opinion from the Public Prosecutor. Without doing so, they simply sat over the file and the case is waiting in cold storage for the past eight years. The reasoning offered by the investigation agency is nothing but a lame excuse and this Court is not inclined to accept the same.

15.A crime has been committed. It needs to be investigated and addressed by filing a final report. One should understand that the entire system is functioning only for the people. Keeping the investigation pending without any progress would not serve the purpose. Therefore, the investigation agency is expected to conclude the investigation in Crime No. 2 of 2017 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

16.It appears that the Officers of the Economic Offences Wing are under the impression that they are supposed to act / prosecute only after a case has been reported before them. They have to understand that they are also liable to prevent such offences. If any Company is offering interest above the rate of interest prescribed by the Reserve Bank of India, it is the duty of the Economic Offences Wing to ascertain from the Company as to whether they have any registration or authority to collect the deposits and as to whether they are having means to give such higher returns. Though every month, such types of cases are reported in the daily newspapers, the greedy people are also depositing money without ascertaining whether the Companies are genuine or not. Neither the Government nor the Police are viewing in this aspect and the people like the petitioners are lured by such Companies and the people are depositing the amount that they may get higher returns, however, ends up waiting for getting at least their deposited amount.

17.By the TNPID Act, Special Courts have been constituted to deal with the offences of such nature. Provisions have been made to seize the properties and bank accounts of the accused and to realize the amount. Though this Act is in existence from the year 1997, very few people have benefitted out of this Act and got their money back. It appears that mainly because of the outdated procedures, not matching with the present technological age, delay occurs in attachment of properties. Most of the victims, like the petitioners, are waiting with a hope that at one point of time, they will get their money back.

18.To be noted, the Economic Offences Wing is established by the Government not only to prosecute the offenders, but also to ensure that the amount cheated by the accused are appropriated and disbursed to the victims. If the Government is satisfied that a financial establishment is not likely to return the deposits or to make the payment of interest, in order to protect the interests of the depositors of such financial establishment, the Government may pass an order of interim attachment attaching the money or other properties said to have been procured either in the name of the financial establishment or in the name of any other person from and out of the deposits collected by the financial institution, as per the provision u/s.3 of the TNPID Act. The ad-interim order of attachment passed by the Government is to be made absolute by the Special Court constituted under the TNPID Act. The Competent Authority appointed u/s.4 of the Act shall apply within 30 days to the Special Court for making the ad-interim order of attachment absolute and he may ask for a direction to sell the properties so attached by public auction and realize the sale proceeds.

19.The mere registration of an FIR alone would not serve any purpose. The object of TNPID Act is to ensure that the victims got back their money. But, the data, which is available as provided by the Economic Offences Wing, discloses that not even 10% of the amount has been disbursed to the victims. The Government is having a moral responsibility to ensure that the victims got back their money.

20.The existing provisions under TNPID Act is a cumbersome process which requires interim attachment by the Government and thereafter to file an application before the concerned trial Court for making the attachment as absolute. In this process, there occurs inordinate delay in attaching the properties.

21.The District Revenue Officer has been designated by the Government as a Special Officer under TNPID Act. The District Revenue Officer / Competent Authority has to file necessary application before the TNPID Court to sell the properties. On reality, the District Revenue Officers, who are burdened with several other works, are not paying any attention for their duty under the provisions of TNPID Act and therefore, there are inordinate delay in filing the applications as required under Section 4(3) of TNPID Act for attaching and selling the properties. The data provided by the Economic Offences Wing itself discloses the failure of the Special Officers, namely, DROs.

22.This Court has taken cognizance of this issue in ***G.Ramdoss***'s case (supra), wherein, an application for attachment was filed by the Special Officer with a delay of 1537 days and passed the following order:

> "24.The DROs of respective districts are designated as Competent Authority vide G.O.Ms.No.1049, Home Department, dated 26.08.2004. As pointed out by the learned Additional Advocate General, the DROs are also

having other duties such as,

i. Assisting the District Collector in discharging their duties. These functions include District Administration ranging from maintaining Law and Order, Planning and Development, General Elections, Arms licensing and etc.

ii. The District Revenue Officer looks after all the branches of the Collectorate which mainly deals with general administration and is also vested with supervision of day-to-day functions of the Collectorate.

iii. The District Revenue Officer runs the Revenue Administration under various enactments in a district.

iv. The District Revenue Officer is also designated as Additional District Magistrate.

v. The District Revenue Officer mainly deals with civil supplies, land matters, mines and minerals, village officers etc.

Therefore, it appears that they are not effectively discharging their duties as a Competent Authority under the TNPID Act.

25.The present case at hand is a glaring example for the same. The ad-interim order of attachment passed in G.O.Ms.No.989, Home (Police XIX) Department, dated 24.12.2012 was challenged by the accused in Crl.OP(MD).No.6607 of 2013, in which one of the main grounds raised is that the application under Section 4 of the Act to make the order as absolute was not filed. This Court allowed the petition on 19.03.2014 recording that the application required under Section 4(3) has not been filed. Even thereafter, the Competent Authority has failed to file necessary application and filed this application belatedly only in September 2021.

26.This delay maybe due to their work pressure as claimed or due to malafide intentions. In this case, it appears that the application under Section 4(3) was not filed, deliberately, even though the application in

Crl.OP(MD).No.6607 of 2013 was allowed by this Court on the same ground. The Hon'ble Supreme Court in Crl.A.No.933 of 2017 set aside the order passed by this Court, as early as on 09.05.2017. Even thereafter, the first respondent / Competent Authority has failed to take any immediate action. In view of this delay, the application filed in the year 2021 was not concluded for past 2 years. Therefore, this Court has verified with the learned Additional Advocate General as to the functioning of the system to achieve the objective of the TNPID Act. The details furnished by the authorities is extracted as under:-

PARTICULARS OF CASES UNDER TNPID ACT	
Number of Cases filed under the TNPID Act	1,249
Number of deposits involved	6,90,166
Number of GOs issued	366
Worth of properties attached	Rs.827,67,75,644/-
Value of sale of properties	Rs.321,45,37,093/-
Amount deposited through TNPID Court, Frozen amount and advance amount	Rs.50,71,61,303/-
Total Amount deposited in the DRO Account under the TNPID Act	Rs.372,16,98,396/-
Amount disbursed to the depositors through DRO under the TNPID Act	Rs.264,73,34,273/-
Number of depositors who received their deposits under the TNPID Act	60,824

27.From the details furnished, it appears that only 39% of the properties attached have been subjected to auction and the sale proceeds were realized. The official website of Economic Offences Wing of

Government of Tamil Nadu also shows the details of the amount refunded to the general public, but this data is only up to August, 2017. For better appreciation, the same is extracted as follows:-

Year	Amount Refunded
2012	Rs.46.96 Crores
2013	Rs.56.99 Crores
2014	Rs.23.44 Crores
2015	Rs.38.61 Crores
2016	Rs.41.13 Crores
2017 (upto August)	Rs.23.84 Crores

28.The number of criminal cases registered under the TNPID Act are increasing every year. The volume of fraud is also huge. The depositors are mostly poor and illiterate. There is a considerable delay in attaching the properties and bringing the property to auction. Considering the volume of cases and the amount involved, the Government may consider appointment of an exclusive officer in the cadre of IAS or a retired High Court Judge as a Competent Authority for disposing the property which were attached under the TNPID Act. If the properties are brought for auction by a retired High Court Judge or an IAS officer, the confidence among the general public would increase in purchasing the property attached which would see a raise in the number of poor depositors in getting their deposits back."

23.It is not known as to whether the Government has taken any initiative to consider these suggestions made by this Court.

24.To be noted, Section 197 of the BNS enables the Investigation Officer to get an approval from the Superintendent of Police and to file a necessary application for attachment of the properties. Considering the subsequent development of the enactments in the BNS, the Government shall take initiative to amend the relevant provisions under the TNPID Act enabling the Investigating Officer to file necessary application directly before the Special Courts and to ensure that the properties identified by them are attached at the earliest and are appropriated.

25.Whoever may be the victim, even if he is a Member of Parliament or a Higher Police Officer or an IAS Officer, he is expected to depend on the investigation agency for his relief. The State is expected to investigate and prosecute the cases on behalf of the victim. But these delay occurred in this case as well as in the other cases raises a question on the purpose for which these prosecutions have been made. The cases are pending from the year 2017 in the FIR stage itself. It is not known as to when the final report would be filed. It is not known as to how much time it would require for the trial Court to conclude the trial. After 20 years, it is not known whether the victim would reap any benefit. The Government has to evolve a mechanism to ensure that the victims are addressed and the object of the Act is achieved.

26.This Court hopes and trusts that the Government would address the issue, discussed by this Court, in the right spirit.

With the above observations and directions, these criminal original petitions stand disposed of.

Internet : Yes **16.05.2025**
gk

To

1.The Inspector of Police,
Economic Offences Wing,
Madurai District.

2.The Additional Director General of Police,
Economic Offence Wing,
Tamil Nadu.

3.The Superintendent of Police,
Economic Offence Wing,
Chennai.

4.The Deputy Superintendent of Police,
Economic Offence Wing,
Madurai.

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

B.PUGALENDHI, J.

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Crl.OP(MD)Nos.9994 of 2024, 17681 of 2023

16.05.2025