

Crl.R.C.(MD).No.1249 of 2024

'BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 26.03.2025

PRONOUNCED ON : 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1249 of 2024

P.Sadasivam

... Petitioners/Petitioner

Vs.

State through

The Inspector of Police,

E.O.W.-II, Trichy.

(Crime No.78 of 2021)

: Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 438 and 442 of BNSS, 2023 to call for the entire records and set aside the order passed in Cr.M.P.No.324 of 2023, by the learned Special Court under the Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act, 1997 Madurai dated 09.10.2024 and to return the vehicle bearing Registration No.TN-49-BD-9010 (Bus) to the petitioner.



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For Petitioner : Mr.V.Muthu Kamatchi

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No. 324 of 2023, dated 09.10.2024, on the file of the Special Court under the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, Madurai, dismissing the petition filed under Section 457 Cr.P.C.

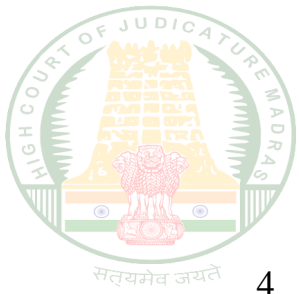
2. The case of the petitioner is that he purchased a bus bearing Registration No.TN-68-P-9229 along a spare bus bearing Registration No.TN-49-BD-9010 from one Late.Kamaludeen for a sale consideration of Rs. 19,00,000/-, vide sale agreement dated 14.12.2020 and the buses were handed over to him and in respect of all post appurtenances such as RTO and other clearances were obligated by the said Kamaludeen, that the said Kamaludeen due to the out break of COVID-19 expired on 14.09.2021 and as such, the registration of the buses in favour of the petitioner could not be executed, that when the petitioner approached the competent authorities, he came to know that



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the Regional Transport Officer, Thiruvarur had black listed the said vehicles in the E-Vaahan Portal, that the petitioner has then filed a writ petition in W.P.No. 34028 of 2022 seeking direction to remove the black listing of the vehicles and to consider the petitioner's representation for transfer of permit, that this Court passed an order dated 22.12.2022 directing for removal of black listing and also directed the respondent therein to consider the petitioner's application for transfer of registration certificate on payment of process fee and that subsequently, as per the directions of the respondent police, he produced the vehicle bearing Registration No.TN-49-BD-9010 before the respondent police on 12.06.2023 who in turn handed over the same to the District Revenue Officer cum competent authority, Thanjavur, that the petitioner has moved an application before the TANPID Court seeking interim custody of the vehicle, that the learned Judge, taking note of the objections raised by the respondent police that the property has already been attached, dismissed the petition, vide order dated 09.10.2024 and that therefore, the petitioner, aggrieved by the dismissal order, was constrained to file the present revision.

3. The respondent filed a counter statement raising serious objections.



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4. It is the case of the prosecution that one Kamaludeen of Ayyampet, Thanjavur District floated two companies, namely M/s Raahath Transport and M/s Raahath Cabs, that the said Kamaludeen who was originally running omnibus business, solicited substantial deposits from general public by offering Rs.11,000/- as monthly interest for every Rs.5,00,000/- deposit and assured the return of the principal after three years, that the said Kamaludeen initially paid monthly interest amount to the investors properly, but subsequently failed to honour the payment of interest and return of principal amounts, that the said Kamaludeen died on 14.09.2021 and the company was closed, that on the basis of the complaint lodged, F.I.R., came to be registered in Cr.No.78 of 2021 for the offences under Sections 406 and 420 I.P.C., on the file of the Thanjavur DCB, that during investigation, it was found that 156 vehicles were registered in the names of M/s Raahath Transport, M/s Raahath Cabs, Mrs.Rehana Begam, Mr.Abdul Rahman and Mr.Abdul Gani, that the investigation revealed that 6557 depositors deposited a sum of Rs.417 Crores, that out of 156 vehicles, 53 vehicles were seized by the Investigating Officers, 60 vehicles were seized by the private banks and the remaining vehicles are yet to be secured, that the Government has already passed a Government Order in G.O.Ms.No.188, dated 20.04.2023 for attachment of 59 vehicles, that since the Government has already



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passed an order to attach the vehicle bearing Registration No.TN-49-BD-9010 in the proceedings under Section 3 of TNPID Act and the same was handed over to EOW, Trichy by the petitioner and that therefore, the petitioner is not entitled to get the possession of the vehicle.

5. It is pertinent to note that the petitioner has not produced any iota of materials to show that he is the present owner of the vehicle in dispute. The petitioner himself in the affidavit has averred that he entered into a sale agreement with the original owner Kamaludeen for purchase of two buses and before completion of the transation, the said Kamaludeen had died. No doubt, as rightly pointed out by the learned Counsel for the petitioner, in the impugned order, the learned Special Judge has observed that the petitioner is the owner of the bus in dispute and the petitioner, in the revisional grounds, has also stated that he is the present owner of the vehicle.

6. It is pertinent to mention that the petitioner has earlier filed a writ petition in W.P.No.34028 of 2022 seeking orders directing the Regional Transport Officer, Thiruvavarur to remove the black listing of the vehicles bearing Registration Nos.TN-68-P.9229 and TN-49-BD-9010 from Parivahan E-Portal



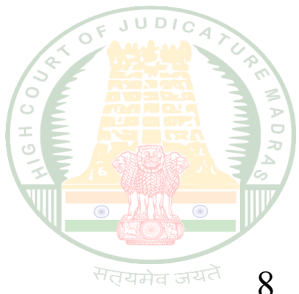
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and consider the petitioner's representation for transfer of permit in respect of the said vehicles in favour of the petitioner and that this Court has passed an order dated 22.12.2022 disposing of the writ petition with directions. No doubt, this Court, in the said order, has set aside the order black listing the vehicles passed by the RTO, Thiruvavur and directed the petitioner to submit an application within a week from the date of receipt of a copy of that order and on receipt of such application, the respondents therein were directed to transfer the registration certificate and permit and renew the fitness certificate, on payment of proper fee as specified within a week.

7. It is necessary to refer the following observations made by this Court in the said order dated 22.12.2022:

“It is made clear that mere transfer of the registration certificate of the vehicles in the name of the petitioner, will not confer absolute right to the petitioner, except for plying the vehicle. However, the ownership is always subject to any confiscation order passed by the competent Court in this regard. In the event any replacement is taken place, as per the Act, such replaced vehicles would also be subject to the confiscation proceedings.”



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8. As rightly contended by the learned Government Advocate (Crl.Side), this Court has not declared that the petitioner is the owner of the vehicle in dispute, but on the other hand, specifically observed that the transfer of registration certificate will not confer any right on the petitioner and that the ownership of the vehicle is subject to the confiscation order passed by the competent Court.

9. It is not in dispute that the originally F.I.R., came to be registered in Cr.No.78 of 2021, on the file of DCB, Thanjavur and subsequently, the case was transferred to EOW, Trichy and the case was altered for the offences under Sections 406, 420 I.P.C., and Section 5 of TNPID Act, and after investigation, charge sheet was laid for the offences under Sections 406, 420, 120(B) I.P.C., and 5 of TNPID and under Sections 3, 5, 21(1)(2)(3), 23, 25 of BUDS Act 2019, that the respondent police has found out that 6557 depositors deposited Rs.417 Crores and that 154 vehicles came to be purchased in the name of the said Kamaludeen, Rahana Begum, Absal Rahman and Abdul Kani and by their concerns. According to the prosecution, the Government has already passed a Government Order in G.O.Ms.No.188 Home (Police) Department, dated 20.04.2023 for the attachment of 59 vehicles out of 154 vehicles.



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10. The learned Government Advocate (Crl.Side) would submit that the Government has already passed necessary orders under Section 3 of TNPID Act for attachment of vehicles and in pursuance of the same, 28 vehicles were already handed over to the competent authority by the respondent police to take further proceedings.

11. The learned Special Judge, considering the materials available on record, has observed that the proceedings under Section 3 of TNPID Act has already been completed with regard to the vehicle in dispute and that since it is an economic offence, the attachment of properties under Section 3 of TNPID Act is very essential for safeguarding the interest of the depositors and that since the property was already attached as per the Government Order, the competent authority has to proceed under Section 4(3) of TNPID Act to make an ad-interim attachment absolute and for the sale of the property. As rightly contended by the learned Government Advocate(Crl.Side), the judgment of the Hon'ble Supreme Court relied on by the petitioner in *Sunderbhal Ambalal Desai Vs. State of Gujarat* reported in *AIR 2003 SC 638*, cannot be made applicable to the case on hand.



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12. Considering the above and also taking note of the proceedings under the TNPID Act, the impugned order dismissing the petition filed under Section 457 Cr.P.C., cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

13. In the result, the Criminal Revision Case is dismissed.

30.04.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

The Special Court under the Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act, Madurai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in

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