

(2012) 01 MAD CK 0332

In the Madras High Court

Case No : Criminal R.C. (MD) No. 568 of 2011 and M.P. (MD) No. 1 of 2011

V. Senthamaraikannan, A. Jeyapal Pisu Rayar and Railas P.
Rayan

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 19-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239

Penal Code, 1860 (IPC) — Section 420

Tamil Nadu Protection of Interests of Depositors in (Financial Establishments) Act,
1997 — Section 5

Citation : (2012) 01 MAD CK 0332

Hon'ble Judges : P.R. Shivakumar, J

Bench : Single Bench

Advocate : T. Lajapathi Roy, for the Appellant; S. Prabha, Govt. Advocate (Crl.
Side), for the Respondent

Final Decision : Dismissed

Judgement

Mr. Justice P.R. Shivakumar

1. The present Criminal Revision case has been preferred against the order of the learned Special Judge, Special Court established under TNPID Act, Madurai, dated 06.04.2011 made in Cr.M.P. No. 862 of 2009, in C.C. No. 100 of 2008, on the file of the said Trial Court. The said Criminal Miscellaneous Petition was filed by the petitioners 1 to 3 herein, who had been arrayed as accused No. 9 to 11 in the above said Calendar Case. The case was registered in the year 2005 in Cr. No. 9 of 2005, on the file of the Inspector of Police, Central Crime Branch, Thoothukudi District, for an alleged offence punishable u/s 420 of I.P.C. However, after completion of investigation, the Investigating Officer chose to submit a final report alleging commission of offence punishable u/s 5 of the Tamil Nadu Protection of Interests of Depositors(in Financial Establishments) Act, 1997(hereinafter called as TNPID Act) alone. The petitioners had been arrayed as accused persons and ranked as accused No. 9 to 11 on the basis of the materials

collected by the Investigating Officer showing that they were partners of the financial establishment which committed default as described in Section 5 of TNPID Act on the dates of deposits and dates of such default as well as on the date of complaint. When such is the case, the petitioners herein (A9 to A11) seem to have approached the trial court with a petition u/s 239 of Cr.P.C. as Cr.M.P. No. 862 of 2009, praying for an order of discharge contending that no material had been collected to show that anyone of the petitioners was responsible for the management of the affairs of the financial establishment.

2. But upon perusing the records and after hearing both sides, the court below came to the conclusion that there were enough materials to show the presence of grounds for presuming that the petitioners herein were also the persons responsible for the management of the affairs of the financial establishment which committed default as on the date of complaint and that they took active part as partners of the firm in collecting the deposits from the depositors.

3. This Court also, upon perusing the records, concurs with the view expressed by the learned Special Judge under TNPID Act that there are materials to make out a ground for presuming that the petitioners herein have committed an offence u/s 5 of the TNPID Act and that hence, their prayer for the relief of discharge from the case in C.C. No. 100 of 2008 was rightly declined by the learned Special Judge. This Court finds no defect or infirmity in the order passed by the learned Special Judge dismissing the discharge petition filed by the petitioners herein in Cr.M.P. No. 862 of 2009. No case has been made out for interfering with the said order in exercise of the revisional power of this Court. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is dismissed.