BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.05.2025

CORAM:

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

Crl.OP(MD)Nos.3155, 5962 of 2024

A.Paramasivam : Petitioner in Crl.OP(MD).3155/2024

G.Sivakumar : Petitioner in Crl.OP(MD).5962/2024

Vs.

1.The Inspector of Police,
Economic Offences Wing,
Dindigul, Dindigul District.
Cr.No.2 of 2020

2.The Inspector of Police,
Economic Offences Wing,
Theni, Theni District.

3.The Additional Director General of Police,
Economic Offence Wing,
Tamil Nadu. : Respondents in
Crl.OP(MD).3155/2024

[R.3 *suo-motu* impleaded vide order dated 31.07.2024]

1.State rep. by
The Inspector of Police,
Economic Offence Wing - II,
Madurai District.

2.P.G.Marketings,
Rep. by its Directors,
A3. S.Thanihaimalai, A4. S.Tharadevi, A5. S.Balamurugan,
No.48, Vivekanada Nagar,
120 Feet, Mattuthavani Main Road,
Surveyar Colony, Madurai.

3.PGM Agro Tech Company Limited,
A3. S.Thanihaimalai,
A4. S.Tharadevi,
A5. S.Balamurugan
No.48, Vivekanada Nagar,
120 Feet, Mattuthavani Main Road,
Surveyar Colony, Madurai.

4.S.Thanihaimalai

5.S.Tharadevi

6.S.Balamurugan

7.The Additional Director General of Police,
Economic Offence Wing,
Tamil Nadu. : Respondents in
Crl.OP(MD).5962/2024

PRAYER in Crl.OP(MD).3155/2024: Petition filed under Section 482 CrPC seeking a direction to the first respondent to complete the investigation and file the final report in Crime No.2 of 2020 within a stipulated time limit.

PRAYER in Crl.OP(MD).5962/2024: Petition filed under Section 482 CrPC seeking a direction to the Special Court for TNPID Act Cases, Madurai, to expedite the trial in CC.No.6 of 2016 and conclude the same within a stipulated time limit.

For Petitioners : Mr.R.Balakrishnan
in Crl.OP(MD).3155/2024

Mr.S.Sankarapandian
in Crl.OP(MD).5962/2024

For Respondents: Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)
for R.1 to R.3 in Crl.OP(MD).3155/2024
for R.1, R.7 in Crl.OP(MD).5962/2024

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COMMON ORDER

The petitioner in Crl.OP(MD)No.3155 of 2024 is one of the victims in Crime No.2 of 2020 on the file of the Economic Offence Wing, Dindigul and he has filed this petition seeking a direction for expediting the investigation and to file the final report within a stipulated time limit.

2.The petitioner in Crl.OP(MD)No.5962 of 2024 is one of the victims and the defacto complainant in Crime No.3 of 2013 on the file of the Economic Offence Wing, Madurai. The case is now pending at the stage of trial in C.CNo.6 of 2016 before the TNPID Court, Madurai. He has filed this petition seeking a direction to conclude the trial within a stipulated time limit.

3.Though both the cases pertain to different crime numbers, considering the fact that the issue in both the petitions pertain to TNPID Act, both are heard together and are disposed of by this common order.

4.These are cases of cheating. The accused company [M/s.Udhayam Chits Private Ltd., and other sister concerns in Crl.OP(MD).3155 of 2024; M/s.PG Marketing and Agro Tech Company Ltd., and other sister concerns in Crl.OP(MD).5962 of 2024] had collected deposits from a large number of persons to fund its business operations. The company offered that they would return the matured amount with huge interest. But, they have cheated the depositors. Hence, the cases were registered.

5.**Crl.OP(MD).3155/2024** -

Response of the investigation agency:-

5.1.The case was originally registered in Cr.No.2 of 2020 on the file of the Economic Offence Wing, Dindigul. Separate Economic Offence Wing was opened at Theni in the year 2022 and as per the order of the Additional Director General of Police, Economic Offence Wing, Chennai, dated 11.05.2022, the case was transferred to the Economic Offence Wing, Theni and the Deputy Superintendent of Police, Economic Offence Wing, Ramanathapuram Range, has taken up the investigation.

5.2.The Deputy Superintendent of Police, Economic Offence Wing, Ramanathapuram, has filed a status report that there are more than 300 victims in this case and the accused persons have cheated to the tune of Rs. 10 Crore. There are 13 accused in this case.

5.3.Five movable properties and eight immovable properties of the accused have been identified. Bank accounts of the accused valuing Rs. 29,96,075/- has been freezed and properties worth about Rs.2,20,65,017/- has been seized. For the seized properties, they are awaiting for the valuation report.

5.4.The investigation is in the right track and that they would complete the same as early as possible and file the final report.

6.**Crl.OP(MD).5962/2024** -

6.1.The criminal case was originally registered in Crime No.3 of 2013. After the investigation, the case has been charge sheeted and pending in

CC.No.6 of 2016 before the TNPID Court, Madurai. Considering the fact that the case is pending at the stage of trial for the past eight years, this Court has called for a report from the learned Judge.

6.2.The learned Judge, Special Court for TNPID Act Cases, Madurai, has filed a report that the properties of the accused have not been identified by the investigation agency as required u/s.3 of the TNPID Act and therefore, the trial Court is not in a position to conduct the trial further.

Response of the investigation agency:-

6.3.The Deputy Superintendent of Police, Economic Offence Wing, Madurai, has filed a status report that the accused had filed various discharge petitions and therefore, the trial could not commence even though the charge sheet was taken cognizance in the year 2016.

6.4.The properties of the accused worth about Rs.90 Lakh were identified and the proposals for ad-interim attachment are under process.

6.5.On 27.05.2024, they have submitted a proposal for attaching the properties of the accused worth about Rs.87.9 Lakh.

6.6.One more proposal for attachment of the crime property worth about Rs.2,72,000/- is under process.

7.This Court considered the rival submissions made on either side and perused the materials placed on record.

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 this 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 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.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.

13.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.

14.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.

15.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.

16.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. The cases on hand are glaring examples.

17.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.

18.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."

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

20.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.

21.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 for years together 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.

22.This Court has noticed that there is no sufficient manpower for this Department for this volume of work. It appears that they have not been provided with any vehicles. Learned Additional Public Prosecutor has also expressed the difficulties faced by the investigation agency in collecting the revenue records and the genuineness certificate from the Tahsildar and the guideline value from the Sub Registrar. The Government is expected to address the difficulties faced by the investigation agency. At the same time, the investigation officer has to understand that there is no need to refer all the 10000 depositors as witnesses and to examine as witnesses during the trial. The prosecution can rely on few witnesses and in the event if those few witnesses turn hostile, necessary applications may be filed to produce the other witnesses.

23.This Court has also noticed that most of the time of the investigation officers are spent for their appearance in the Court on the applications filed by the accused. The Public Prosecutors have to restrict from calling the investigation officers for each and every hearing. They can

collect the written instructions on the point of issue and they can very well verify the same through video conference. The Secretary to Government, Home Department shall ensure for providing video conference facility to the Office of the Law Officers, at least at the High Court and District Court level to preserve the time of the investigation officers in the Court waiting unnecessarily from morning to evening. The Public Prosecutor shall issue a Circular to that effect, restricting the law officers under the conditions in which they have to summon the investigation officers to the Court.

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

25.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,

i) the investigation agency in Crl.OP(MD)No.3155/2024 is expected to conclude the investigation in Crime No.2 of 2020 as

expeditiously as possible;

ii) the investigation agency in Crl.OP(MD)No.5962/2024 is expected to ensure that the proceedings u/s.3 of the TNPID Act is complied and the trial in CC.No.3 of 2013 attains its logical conclusion.

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

Internet : Yes **16.05.2025**
gk

Note:

Mark a copy of this order to

1.The Secretary to Government,
Home Department,
State of Tamil Nadu,
Chennai.

2.The Public Prosecutor,
Chennai.

To

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

2.The Inspector of Police,
Economic Offences Wing,
Theni, Theni District.

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

4.The Inspector of Police,
Economic Offence Wing - II,
Madurai District.

5.The Deputy Superintendent of Police,
Economic Offence Wing – II,
Madurai.

6.The Deputy Superintendent of Police,
Economic Offence Wing,
Ramanathapuram Range,
Ramanathapuram.

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

B.PUGALENDHI, J.

gk

Crl.OP(MD)Nos.3155, 5962 of 2024

16.05.2025