

**IN THE COURT OF THE CCB & CBCID METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI-8.**

PRESENT : Tmt. P. Revathi, B.A., B.L.,
CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.

This Monday the 13th day of June 2022
Cr.I.M.P.No. 5889/2022 in CNR.No.TNCH0F-010050-2022

1. Mr. Saravanakumar Dhandapani, M/39,
S/o. S. Dhandapani,
No.1/251, MGR Nagar,
Udumalpet, Tiruppur – 642 207.

2. Mrs. Uma Maheshwari Devarajan, F/37,
W/o. Saravanakumar Dhandapani,
No.1/251, MGR Nagar,
Udumalpet, Tiruppur – 642 207.

Petitioners 1 & 2 Rep. by their
Authorized Signatory

3. Mr. Gnanavel, M/33,
S/o. Shanmugavel,
Old No.3, New No.3/62, Gandhiasiramam,
Pollachi, Peripodu, Coimbatore – 642 103.

.... Petitioners

-Vs-

The State Rep. by
The Inspector of Police,
Central Crime Branch-II,
Vepey, Chennai-07.

.... Respondent

This petition is coming before me for final hearing on 12.05.2022 and after hearing arguments of the learned counsel for the petitioner/complainant M/s. S.V. Pravin Rathinam and having stood over for consideration till this date this court delivers the following:-

ORDER

1. This Petition is filed by the petitioner under section 156(3) of Cr.P.C.
2. Heard the learned counsel appearing for the petitioner and perused the entire records submitted by the petitioner.

3. From the perusal of records submitted by the petitioner, it is found that the present petition is filed under section 156 (3) of Cr.P.C directing the respondent to enquiry and register FIR based on the complaint given by the petitioner dated 12.07.2021. The petitioner states that the petitioners 1 and 2 are currently residing at USA and due to the non-registration of FIR by the respondent; the petitioner are being denied the VISA by the USA Government to travel to India. It is truly submitted that owing to the said non-grant of VISA the petitioners are unable to be present before this court for filing this present petition and hence the said authorization letter dated 29.12.2021 was executed by the petitioners in favour of Mr. Gnanavel solely for the purpose of filing the present complaint before this court. It is submitted that, Mr. Suresh Kumar Gunasekaran and Mr. George Sargunraj Christopher are Directors of Mac App Studio Pvt. Ltd., having its registered office at no, 32, 8th cross street, Ram Nagar South, Madipakkam, Chenna-91 and Mr. Jayakumar, Auditor & CFO of MacAppStudio Pvt. Limited permitted to be arrayed as 3rd accused in complaint. During the year 2019, the accused persons approached the petitioners and represented that they have collaborated to work on an idea of developing a big social networking platform in the name of Peepul on the lines of Whatsapp, Instagram and Facebook with lucrative prospects and great revenue forecast as well as huge financial returns . The accused persons showed various strategic documents depicting the strategy, Financial Plan, investment mechanism and future profitable prospects of the project to the petitioners, while making salubrious and high class presentations of the entire product which was proposed to be launched. The accused further assured the petitioners that the project will be launched by 26.01.2020. The accused persons by way of a strategy document explaining the strategy for the app, schedule and milestones, financial plans including the investments by respective investors, the exit plans and investment return details, communicated and shared the same with the petitioners through e-mail. The accused persons further through the above communication and strategy document represented to the petitioners that if they invest in such project, the

petitioners will have 10% equity holding in the newly formed company which was to be formed under the name of Peepul Pte. Ltd. Singapore. The accused persons represented to the petitioners that such a product is being initially started in India and after its successful initiation in India, it will be shifted to Singapore along with all the Intellectual Property, employees, capital and the entire business of the company. It was further represented by the accused persons that the investment as infused by the petitioners would fetch huge returns on yearly basis depending upon the number of individuals joining the platform. They had all the technical expertise for such projects, it only lacked the financial resources to carry them out, relying upon the bonafide representation, assurances and upon the trust on Accused persons who being the Director of Mobile Application Development Company and having significant expertise in the said field, the petitioners transferred a sum of Rs. 1,00,00,000/- in several tranches starting from July 2019 till Nov 2019 through their business account namely “ Vinayaka Ventures LLC ” registered in the USA to the accused persons company namely Mac App Studtio Pvt. Ltd. The representation made by the accused persons and based on trust the petitioners transferred an amount equivalent to Rs. 1,00,00,000/- and on receipt of the said amount, the accused persons company through its Head of finance Mr. G. Vasanthkumar signed and accepted the receipt of these amounts. In furtherance of the nefarious designs and tactics, formed a company in Singapore in the name Peepul Pte. Ltd., with a meager capital of 2000 GSD (Singapore Dollars) (Approx. Rs. 1,00,000) and promised to invest all the money taken from the petitioners in the said company by giving 10% in equity to the petitioners. That Peepul Pte. Ltd. was actually a shell/dummy company opened in a foreign country, the fact which later came to knowledge of the petitioners. The real intention of the accused person was unjustly enrich themselves and embezzle the money invested by the petitioners which was invested out of abundant trust on the accused, for ulterior purposes. The accused persons utilized the money to give impetus to their own business ventures and for personal individual gains, moreover the accused persons after receiving money

from the petitioners did not launch any such social Networking App as promised by them and instead invested the entire money invested by the petitioners in their own ventures namely Pepul Tech Pvt. Ltd., The said fact was never brought to the notice of the petitioners. The documents pertaining to the certificate of the incorporation of Peepul Pte. Ltd., shows the total shares of the company to be 2000 in no's and share certificates issued by the accused persons from the said company to the petitioners M/s. Vinayakaa Ventures LLC to the extent of 200 shares clearly establishes the fact that the accused persons had invested the money of the petitioners in that company and had issued 10% equity shares to the petitioners in lieu of their investment. When the accused persons failed to launch the product within the period as represented to the petitioners, i.e., by 26.01.2020, the petitioners sought information about the status of the product from the accused persons regarding various steps taken by them towards its development and launch. However, the accused persons could not provide any such information and moreover neither any bonafide nor any convincing explanation was given for not launching the product within the time as promised and moreover the accused persons in fact sought more time for launching of the product. It was misrepresented to the petitioners that the company was operational but at the same time, the accused persons could not provide investor reports, project reports as well as the financial reports till date elaborate as to how the finances were being utilized for the day to day running of the company. The petitioners requested for the same, the accused persons used to get aggressive and would either re retort badly or used to threaten with dire consequences. The duplicitous conduct of the accused persons and they have played fraud on them, with the sole intent of cheating the trust and causing wrongful loss to the petitioners. The accused persons have swindled the entire money and misappropriated the same for their own use and benefits. The petitioners being totally unaware of the nefarious designs of the accused persons gave money to them due to the abundant trust and believing all the false representations made by the accused. The petitioners were not getting any credible answers or explanations from the accused persons, they started

demanding their money back vide various modes. At one point of time, the accused persons also threatened the petitioners over call as well as e-mail when the complainant insisted for payment of the amount and during one such communication as early as 01.07.2020. The petitioner no.1 in his e-mail has himself referred to and admitted to the investment of Rs. 1 Crore by the petitioners including reference to 10% equity shares allotted to the petitioners. Thereafter, in further communications vide email dated 21.01.2021 and 25.01.2021, the accused persons had admitted the money invested by the petitioners and has even admitted the fact that the same is liable to be returned. In communication dated 17.02.2021, Mr. George Sargunaraj Christopher again wrote to the petitioners indicating that they are making arrangements for returning the money and undertook to settle the amount fully by March 2021 and Mr. George Sargunaraj Christopher sent another email dated 15.03.2021 detailing the repayment terms. There were several communications with the accused persons vide mail, wherein the accused persons have themselves requested the petitioners to issue a letter to the accused authorizing them to facilitate the refund of Rs. 1 Crore with 12 % interest to the partnership venture of the petitioners i.e., M/s. Vinayakaa Ventures LLC. The accused persons have also appointed their own virtual CFO named Mr. Jayakumar (3rd accused as per the petitioner's complaint) to whom, vide emails the accused persons have communicated admitting the liability of Rs. 1 Crore to the petitioners. The petitioners reposed their utmost faith and trust on the accused persons, who exploited the tight-knit-trust which the petitioners had on them, by targetting their susceptibility of getting influenced by the trust which they built in order to swindle the money of the petitioners. The accused persons crossed all limits of human decency when they started threatening the petitioners with dire consequences and that at a time when they were unjustly enjoying the hard-earned money of the petitioners. It subsequently came to the knowledge of the petitioners through the company information existing in Ministry of Corporate Affairs that the accused persons have started a Company in the name of "Pepul Tech Pvt. Ltd., " in India, by investing the entire money of the petitioners in the

said company. However, the same was never informed to the petitioners by the accused and the said fact came to the notice of the petitioners only recently. When the petitioners enquired the accused persons about the starting of the above said company in India, the 1st accused informed the petitioners that the Company has nothing to do with Social Network Product "Peepul" which was initially promised to be launched by the accused persons by 26.01.2020. The accused persons informed the petitioner that Pepul Tech Pvt. Ltd., (India) is a new company with a new product started by the accused persons from scratch with a completely new team. The accused persons completely denied any association with the petitioners in the company but admitted that the petitioners own 10% in Peepul Pte Ltd. (Singapore) and later to the petitioners said that the original project got dropped since the petitioners asked for refund of the money. The company Pepul Tech Pvt. Ltd., has been started with the money of the petitioners and the accused persons are denied any involvement of the petitioners in that company. That various conversations which took place between the petitioners and the said accused persons through various modes clearly delineate and illustrate the fraudulent conduct of the accused persons, it also reveals the modus operandi adopted by the accused person in cheating the petitioners and depriving them of their money. The accused persons have admitted the fact of misappropriating the money and their liability to pay the same by offering various proposals/options for the return of the money to the petitioners which the accused persons never complied with hitherto. The accused persons always came up with a new excuse for not returning the money which can be seen from the conduct of the accused persons. The accused persons represented to the petitioners that the money which they are advancing will be an investment on their part in the new project and even promised 10% equity in return but it was later realized that the idea was to make the accused themselves the shareholders in the new company which was proposed to be formed. The money invested by the petitioners is neither shown as "Loan" or "Salary to employees" in the balance sheet and books of accounts of the MacAppStudio Pvt. Ltd., which is owned by the accused

persons which is in total violation of the commitment made by the accused person. Since the inception of MacAppStudio Pvt. Ltd the remuneration of the Director, i.e., the accused persons, has increased by up to 300% which clearly shows the extent to which the accused persons are willing to go to usurp the hard earned money of the petitioners. The petitioners were going through the official website of the Corporate affairs (mca.gov.in), they were surprised to see that the accused persons have in fact started two different companies in the same time frame which they had promised the complainants. The details of said companies are as follows. (a) GOD MUSIC PVT. LTD., (CIN No. U72900TN2020PTC134149 started on 30.01.2020) (b) PEPUL TECH PVT. LTD., (CIN No. U72900TN2020PTC139160 started on 03.11.2020.) A bare perusal of the master date of the said companies available in the web page of Ministry of Corporate Affairs reflects that both the accused persons are Directors in the above said two companies which was started after 26.01.2020, i.e., the promised date of launch of the product as induced by the accused persons. M/s. Pepul Tech Pvt. Ltd., has only the accused persons as Directors and petitioners are not listed as Directors and even the loan advanced to the accused persons is not listed under the category of "*Charge*" of the said company which clearly shows that the accused persons have misappropriated the hard earned money of the petitioners for their own use. The nefarious and malafide intent of the accused persons, it was informed by the accused persons that their company has appointed one Mr. Jayakumar, who is working as an Auditor in the Company as their virtual CFO, for discussing and returning the money to the petitioners. It was informed by the accused persons that the CFO will be single point of contact on behalf of their Company to deal with the issue of returning money. It is submitted that, initially the petitioners did not suspect the involvement of Mr. Jayakumar with the accused persons since it occurred to them that may be a third person would have an independent perspective of the case in hand but slowly and gradually it became clear that in fact the said ploy of appointing the CFO was nothing but a strategy of the said accused persons to usurp the hard earned money of the petitioners and it was at

this stage that the role of the Mr. Jayakumar in the said scam became patent. All the nefarious tactics being adopted by the accused persons, another person named G. Vasanthakumar, was brought into the scenario to sort out the financial chaos, the said G. Vasanthakumar introduced himself as the head of Finance of MacAppStudio and instead of reaching an amicable solution, supported the narration of the Accused persons obviously since he was their employee. When they confronted the said G. Vasanthakumar with respect to the authorization being given to him in order to handle the case in hand, there was no reply from his end. The said head of Finance failed to explain how the investment of Rs. 1 Crore became the share Capital of just few dollars of a company whose actual worth should be more than the investment by the petitioners. When the petitioners made allegations with respect to Peepul Pte. Ltd., being a shell company which was used to induce the petitioners, there were no reply from the side of the accused persons despite them being very prompt in reverting to other emails. The accused person to return the money however the accused persons are engaging in dilly dallying tactics. The accused person by enjoying a position of dominance over the petitioners are exploiting the helplessness of the petitioners by forcing them to accept various unfair and reasonable options provided by the accused as a substitute for the money. The petitioners have repeatedly conveyed to the accused person that they only need their invested money along with interest and have interest whatsoever in investments or equity holding in any such project, which has subjected them to immense mental physical torture. The accused persons from the very incepting acted in connivance with each other and made fraudulent representation to the petitioners with the dishonest intention of inducing the petitioners to invest the money whereas they never had any intentions of returning the same and the accused persons further had no intention to fulfill the agreed terms. The entire scam was done in collusion between the accused persons, who were involved in the criminal conspiracy to carry out the illegal activities. The accused persons kept on assuring that a loan agreement would be executed with the petitioners and the petitioners had also requested the

accused for post-dated cheques (PDC's) in order to secure the money lent but the said request was tactically avoided by the accused persons on the pretext that in case the accused issued the said PDC's, there was a possibility of sense of in security being created within the partnership, the said fact is patently established in the online meeting between the accused and the petitioner which was held vide Zoom on 08.02.2021. The accused had admitted in the video meeting that a payment of Rs. 25,00,000/- shall be made on or before the March 2021, the fact patently established the unlawful intention of the accused persons since they were clear with their misappropriation plans. The accused also misrepresented that they were going to transfer 100 US Dollars (USD) as a test to check if the amount has gone through to the account of the petitioners or not, however, hitherto the said amount has not been credited. When the said aspect was brought to the notice of the accused persons, they said that due to some issued in the transfer of USD, the accused were unable to transfer the money in the form of USD which was nothing more than a delaying tactic. The petitioners even asked the accused persons to transfer the amount in Indian Rupees to the bank account maintained by the petitioners in India. However, even that did not to go through and the petitioners kept on reminding the accused through subsequent mail conversations but in vain. The accused persons even blocked the email ID of the petitioners when there were consistent reminders to return the money and when there were repeated reminders, the accused started threatening the petitioners with dire consequences. The accused has neither settled with the petitioners nor have they paid the statutory dues of the statutory authorities at Singapore which clearly establishes the ill motive of the accused persons from this conduct. The accused persons have invested the money, which they misappropriated from the petitioners, in their other ventures by the same name and are also denying and association of the petitioners in the said product, which in fact is being launched by the capital provided by the petitioners. That huge money invested in the project and the accused are using the huge sum of monies invested by the petitioners for various illegal purposes and until the money is recovered

from them there is ample possibility that many innocent people will be lured in by the accused the same way the petitioners were being lured. The accused persons are also continuing to deceive many people including VIP's, NRIs etc. and are misappropriating huge sums of money in the same way as in the case of the petitioners. Unless and until the accused are brought to justice huge prejudice and injustice will be caused to the petitioners and to the public as well. The sole motive of the accused persons was to swindle money from the petitioners by breaching the trust of the petitioners and unlawfully utilize the same by fraudulently investing the monies in their own projects by keeping the petitioners in oblivion, the said aspect can also be seen from recent emails dated 09.09.2021 and 14.09.2021 wherein the 1st accused has specifically admitted the liability of Rs. 1 Crore, which he has promised to pay back with an interest at the rate of 12 %. The accused persons has infact specifically thanked the petitioner for helping him with the funds and reiterates that the same would be returned with interest. It is amply clear that the accused persons had dishonest intentions from the very inception and clearly made use of the pandemic situation and devised a plan to misappropriate the money for their own use. The accused persons were guided by the sole motive of causing wrongful loss and breaching the trust of the petitioners to utilize the money in their other ventures/companies registered in their names and thereby obtained unjust benefits for themselves. The accused person have dishonestly misused the money and failed to discharge their legal obligation thereby reflecting their criminal intent. That unable to bear the agony, misappropriation, breach of trust and constant evading tactics of the accused persons the petitioners lodged a written criminal complaint dated 12.07.2021 before CCB, Chennai and the same was duly received, verified and acknowledged by the CCB vide a receipt dated 06.08.2021. The despite the production of all the below mentioned relevant documents and clear documentary evidence against the accused, for reasons best known to CCB, no action was taken or initiated by the CCB against the accused persons for about 4 months since the filing of the complaint despite several visits to concerned police station to explain each and

every aspect. Apart from changing the investigating officer twice, no concrete steps were taken to do fair and proper investigation and registration of FIR for a very long time. The petitioners received a letter dated 29.11.2021, received on 01.12.2021 from the CCB, stating that further action has been dropped over the complaint since there were no proposed business agreements between the petitioners and the accused persons and it was just a routine money dispute, all of which does not make out a prima facie case to be probed by the CCB. It has been more than 5 months since the complaint has been made and the preliminary investigation conducted by the CCB is unsatisfactorily, since the authority failed to take note various pertinent documents and failed to apply their mind to the facts of the case, aggrieved over the same the petitioners have approached this court by virtue of this petition. The inordinate delay caused by the CCB and the manner in which the investigation was conducted clearly reflects that an unbiased and fair investigation has not been conducted by the CCB. The petitioner has got a reasonable apprehension that the accused person might have used their political clout and influence that they have in order to make the petitioner to suffer setbacks in receiving a fair and impartial justice from CCB. During the pendency of the investigation the accused persons, had vide e-mail dated 05.10.2021, admitted to repaying the invested money of Rs. 1 crore and gave insolent reply asking us to take only the amount that the accused persons gives and not to ask for any further amount and even stated that they are not ready to repay the interest amount of Rs. 12,00,000/-. The inaction of CCB, Chennai a copy of the complaint was also sent to the office to the Deputy Commissioner of Police on 01.11.2021. The accused persons misappropriated and converted the money which was entrusted to them for their own use in detriment to the petitioners and the constant delaying, evasive tactics and replies of the accused persons clearly establishes the dishonest intent of the accused persons. The petitioners will be put to irreparable pecuniary loss and mental agony unless the accused persons are tried in accordance with law. Hence, this petition.

4. On the other hand, the respondent police have filed a reply stating that, there seems to be a business related transactions issue between the petitioner and the said accused persons. The petition is said to have been dropped as there was no intention to take criminal action against petitioner's complaint.
5. This court carefully considered the submission made on behalf of the respective parties and on perusal of documents submitted by the petitioner side vide documents, No.1 to 14 Strategy documents, Communications, Payment receipts, E-mail and WhatsApp correspondences between the petitioner and the accused, balance sheet and authorization letter as CFO, we find that petitioner side all these allegations against the accused, this court to decide there are sufficient grounds for him to proved, prima facie cognizable offences made against the said accused persons. Hence, the ingredients u/s. 156 (3) Cr.P.C are satisfied. Therefore, this court is inclined to allow the petition for the above said discussion.
6. In the result, this petition is allowed and this complaint is hereby forwarded to **The Deputy Commissioner of Police, Central Crime Branch, Vepery, Chennai-7.**
7. **The Deputy Commissioner of Police** is hereby required to direct the concerned Inspector of Police to **register an F.I.R. on basing of complaint dt. 12.07.2021 and investigate into the matter and file Final Report.**
8. The Inspector of Police who nominated by the Deputy Commissioner of Police is hereby directed that after registering the **FIR as quickly as possible, consequent upon the receipt of such application, shall send the FIR to this court without any delay.**

// This order is dictated directly by me to the Steno-Typist, and typed by him, corrected and pronounced by me in the Open Court on this Monday, the 13th day of June 2022//

METROPOLITAN MAGISTRATE,
for exclusive trial of CCB cases
(relating to cheating cases in Chennai), and
CBCID Metro cases, Chennai.