

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1084 OF 2015

Midas Diamond Private Limited.

..Petitioner.

Versus

HDFC Bank Ltd and Another.

..Respondents.

Mr. S. V. Kotwal i/b P. D. Jain & Co., for the Petitioner.

Mr. S. K. Shinde, Special Public Prosecutor for CBI.

Mrs. U. V. Kejriwal, learned APP for the State.

Mr. Durgesh Singh i/b India Law for Respondent No. 1.

Ms. B. D. Gada for Respondent No.3.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **July 2, 2015.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. The Petitioner has sought following relief :

“That this Hon'ble Court be pleased to issue appropriate writ, order and direction directing the Respondents to transfer and/or remit back sum of Rs. 25 lacs to the Petitioners Bank Account bearing No.0134913118 maintained with the Citi Bank Ltd, Vile Parle (West), Juhu Branch which amount was erroneously and/or inadvertently by mistake of the Petitioners accountant was transferred by RTGS on 09/01/2015 in the Account of Aayan Comtrade Pvt Ltd, (Account No. 02272020002682) on such terms as this Hon'ble Court may deem fit and proper.”

2. It is the case of the Petitioner that its Accountant on 9th January 2015 inadvertently transferred an amount of Rs. 25 lacs by RTGS in the bank account of Aayan Comtrade Pvt. Limited in stead of transferring the same to the bank accounts of Satkar Ornaments Pvt. Limited. Upon realizing the said mistake, the Petitioner on 12th January 2015 addressed a letter to their bankers, namely Citi Bank Limited and requested for calling back the said funds.

3. By the letter dated 14th January 2015, M/s. Aayan Comtrade Pvt. Limited addressed to Respondent No.1, pointed out that wrong RTGS has come to their account and they permitted Respondent No.1 to remit back the funds to the Petitioner's bank account. Satkar Ornaments Pvt. Limited to whom the said amount was to be remitted, by their letter addressed to Respondent No.1 informed that they were expecting some funds from the Petitioner however the same had not yet come. The same day the Petitioner addressed a letter to Respondent No.1 requesting to remit back the funds to the Petitioner's bank account, i.e., Citi Bank.

4. The Petitioner subsequently learnt that bank account of Aayan Comtrade Pvt. Limited is debit-freezed by the Crime Branch, EoW, Unit III. The Petitioner, therefore, sought No objection from the EoW, addressed to Respondent No.1 for remitting back the funds to the Petitioner's bank account from the bank account of Aayan Comtrade Pvt. Limited. The Petitioner did not get any reply from the EoW, therefore, present petition.

5. The learned Counsel appearing for Respondent No. 3 – M/s Aayan Comtrade Pvt Limited admitted that inadvertently funds have come to their account from the bank account of the Petitioner and Respondent No.3 has no objection to transfer the said funds back to the Petitioner's bank account.

6. Mr. Shinde, the learned Counsel appearing for CBI and Mrs. Kejriwal, learned APP for the State do not dispute above position. However, their stand is that the Petitioner shall approach the civil Court for appropriate reliefs.

7. Admittedly, the amount belongs to the Petitioner and inadvertently it has gone into the bank accounts of Respondent No.3 maintained with Respondent No.1 Bank. Respondent No. 3 has given no objection to re-transfer the said amount to the Petitioner's bank account. It is not the case of Respondent No. 4 that the this amount is subject matter of the crime which is being investigated by EoW. In the circumstances, we do not feel it appropriate to refer the Petitioner to civil Court. In that view of the matter, we are of the opinion that the Petitioner is entitled for the relief claimed in the petition. Consequently, petition is made absolute in terms of prayer clause (a). Respondent No.4 shall de-freeze 3rd Respondent's bank account maintained with Respondent No.1-Bank to the extent of Rs.25 lacs only.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]