

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.592 of 2015

Nisha Joseph

...Petitioner

Versus

State rep.by
The Inspector of Police
CBCID, Cyber Crime Cell
Chennai.

...Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 13.05.2015 passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.1415 of 2015 in C.C.No.1917 of 2014.

For Petitioner : M/s.P.Uma

For Respondent : Mr.V.Arul
Government Advocate
(Crl.side)

ORDER

The petitioner has filed the above Criminal Revision Petition challenging the dismissal order dated 13.05.2015 passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai in dismissing the petition filed under Section 457 of the Criminal Procedure Code in Crl.M.P.No.1415 of 2015 in C.C.No.1917 of 2014 for return of cash to the tune of Rs.2,68,414.50 freezed by the respondent.

2. The case of the petitioner in brief is as follows:

According to the petitioner, she is the defacto complainant in this case and she has paid upto a sum of Rs.5,25,400/- to the accused for processing her application as she got an offer for the post of Maintenance Engineer in a London based company. However, the accused cheated her. Hence, she lodged a complaint before the Trichy District Crime Branch, which was transferred to the respondent's file. While conducting the investigation, the respondent had freezed the amounts maintained by one Sarfaraz Kalam to the tune of

Rs.2,25,219.50. Contending that the said amount belongs to the petitioner, she filed the aforesaid petition before the Court below; however the same was dismissed. Hence, the present revision.

3. Learned counsel appearing for the petitioner would submit that the accused is absconding for the past five years and when that be the case, freezing the above amount without returning the same to the petitioner is not correct in the eye of law. She would further submit that if the amount is owned by the accused, he would have appeared before the Court for defreezing the same. Accordingly, she would pray for returning the sum of Rs.2,68,414.50 to the petitioner as the same was deposited by her in the accused account.

4. On the other hand, the learned Government Advocate (Criminal Side) appearing on behalf of the respondent submitted that the Court below dismissed the petitioner's petition only on the ground that the investigation is pending. However, he expressed no serious objection for returning the cash to the petitioner, however, subject to certain stringent conditions.

6. I heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the State.

7. On a perusal of the records, it is seen that the petitioner has deposited a sum of Rs.5,25,400/- into the accused account for processing her application for her trip to London to join in the job there. However, the accused after obtaining the money, cheated her. It is further seen that out of the total sum of Rs.5,25,400/- only a sum of Rs.2,68,414.50, viz., a sum of Rs.2,25,219.50 in the ICICI Bank Account and Rs.43,195/- in the State Bank of India Account in the name of Sarfaraz Kalam, Kolkata are available in the bank and the same was frozen by the respondent-police while conducting investigation. Since the accused is absconding and the investigation also has been completed in the matter, the frozen amount may be returned back to the petitioner after transferring the same to the credit of C.C.No.1917 of 2014 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai -15, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.5,00,000/- [Rupees five lakhs only] before the learned XI Metropolitan Magistrate, Saidapet, Chennai.

ii) The petitioner shall also give an undertaking before the Court below for producing an amount equivalent to that of the amount to be returned, viz., Rs.2,68,414.50 [Rupees two lakhs sixty eight thousand four hundred and fourteen and paise fifty only] in cash as and when directed to be produced by the Court below during the course of

trial.

iii) On compliance of the aforesaid conditions, the court below is directed to return the frozen amount to the tune of Rs.2,68,414.50 [Rupees two lakhs sixty eight thousand four hundred and fourteen and paise fifty only] after transferring the same to the credit of C.C.No.1917 of 2014 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai-15 to the petitioner on proper identification.

8. In the result, this criminal revision case is allowed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The XI Metropolitan Magistrate,
Saidapet, Chennai-15.

2. The Public Prosecutor,
Madras.

1 CC to M/s.P.Uma, Advocate SR.No. 34922

Cr1 RC No.592 of 2015

LRS (CO)
PSI (10.08.2015)

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