HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Revision Case No.2303 of 2012

ORDER:-

The revision case is filed by the petitioners/A.1 and A.2 in C.C.No.12 of 2007 on the file of the III-Additional Special Judge for CBI Cases, Hyderabad, being aggrieved by the order, dated 05-10-2012, made in Crl.M.P.No.784 of 2012, which was filed by the petitioners/accused under Section 451 of Cr.P.C., for releasing the FDRs., amounting to a sum of more than Rs.15,00,000/- standing in the name of the petitioner/A.2 and which were seized during the search.

2. The respondent/CBI filed the charge sheet in RC.09(A)/2005/CBI/HYD alleging offences punishable under Sections 13(2) read with 13(1)(e) of the Prevention of Corruption Act (for short 'the Act') and Section 109 of IPC. The petitioners/A.1 and A.2 are husband and wife. The petitioner/A.1 was working as Deputy Commissioner of Income-Tax, Tirupathi. He is alleged to have amassed wealth disproportionate to his known sources of income. Investigation was carried out which revealed that during the check period from 01-01-2001 to 06-04-2005, the petitioner/accused had assets to a tune of Rs.30,54,087/- which were in excess of the known sources of income. The petitioner/A.2 was having a Xerox shop at Tirupati under the name and style of Yamini Xerox Centre. The values of the movables and immovables standing in the name of the family members of the petitioner/accused has been taken into account and they are shown in statements A, B, C and D in the charge sheet. The net result of the above exercise was the *prima facie* conclusion that the accused Officer has disproportionate assets to an extent of Rs.30,54,087/-.

3. The contention of the petitioners is that at the relevant point of

time, the petitioner/A.1 has withdrawn part-final withdrawal from his Provident Fund of more than Rs.9,00,000/- and also received certain maturity amounts of the L.I.Cs., and out of that amount, the FDRs., were purchased.

4. In the charge sheet that is filed against the petitioners/accused, all the details of the assets and liabilities including the incomes derived from all the known sources of income which includes the withdrawals from the Provident Fund and the L.I.C. amounts has been taken into consideration. After taking all the figures into consideration, the investigating agency came to the conclusion that the petitioners/accused had assets disproportionate to the known sources of income to the extent of more than Rs.30.50 lakhs. The income that was earned by the petitioner/A.1, the petitioner/A.2 from Yamini Xerox Centre, and by the mother of A.1 from out of rents and agricultural income were taken into consideration. The face value of the FDRs., as in the years 2004-05 were to an extent of more than Rs.15,00,000/-. The petitioners are seeking return of the FDRs., on the ground that they are aged people and they are in need of money.

5. What is noticed from the allegations in the charge sheet is that these FDRs., amounting to about Rs.15,00,000/- were taken into consideration in determining the disproportionality of the assets of the petitioner/A.1 during the check period. It is part of the alleged ill-gotten wealth of the petitioner/A.1. Therefore, pending trial, the FDRs., cannot be returned to the petitioners/accused. However, a direction can be given to the trial Court to see that the FDRs., are regularly renewed and instructions are given to the bank to effect automatic renewals of the FDRs., so that the legitimate interest on the FDRs., is not denied to the person whosoever is ultimately held to be entitled to. The Court below has considered the aspect in proper perspective and refused to release the FDRs., in favour of the petitioners and I see no reason to interfere with the said finding.

6. In the result, the Criminal Revision Case is dismissed subject to the direction that the learned trial Court shall see that all the FDRs., in the custody of the Court are renewed automatically till directed to be withdrawn, so that the interest that is earned on the FDRs., is not denied to the person, whoever, is held to be entitled to the said FDRs., at the culmination of the trial.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K.Jaiswal, J

September, 2015

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