IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Criminal Revision Case No.343 of 2013

Between :-

Yerraboina Jhansi .. Petitioner

and

The State of A.P.,
Through Inspector of Police, ACB,
Karimnagar Range,
Rep.by its Special Public Prosecutor,
High Court of A.P.,
Hyderabad
And another .. Respondents

DATE OF JUDGMENT PRONOUNCED: 06-08-2015

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copies of Judgment may be marked to Law Reporters/Journals Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

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

Criminal Revision Case No.343 of 2013

ORDER:-

This revision is directed against the orders of the learned II-Additional Special Judge for SPE & ACB Cases, Hyderabad, in Crl.M.P.No.349 of 2012 in Cr.No.1/ACB-KNR/2010, dated 10-10-

2012.

2. The petitioner is the third party insofar as the crime is concerned. Her husband, who is the 2nd respondent herein, was working as Veterinary Assistant Surgeon at Karimnagar. The house of the 2nd respondent, was raided by the ACB Officials on 06-02-2010 and it was found that the 2nd respondent was in possession of assets disproportionate to his known sources of income. During the course of raid, a cash of Rs.500,000/- was found in almirah and the same was seized, which has been deposited in the Court. The petitioner/wife contends that she had been doing the poultry business for several years and in fact, she was an income-tax assessee as well. She is the sole proprietor of Saranya Poultlry Farm with a huge turn over. A day or two, prior to the date of raid by the ACB Officials, she received the cash of Rs.5,00,000/- and the same was kept in the house to be deposited in the bank on next day. Unfortunately, the raid was conducted on 06-02-2010 and the cash has been seized. Therefore, it is contended that the cash so seized be returned to her since it belongs to her but not to her husband and that she is being put to inconvenience and hardship due to the seizure of the cash of Rs.5,00,000/-.

3. Learned Public Prosecutor, on the other hand, contends that during the course of search, it was found that the accused Officer/R.2 was in possession of assets disproportionate to his known sources of income. It was found that the accused Officer was in possession of movables and immovables worth about Rs.1,50 crores. His total income from all sources was in the range of Rs.1.17 crores. The cash was found in the almirah of the house belonging to the accused Officer and the petitioner is his wife. Investigation has been completed and charge-sheet has been filed. Therefore, the prosecution submits that returning the seized cash will not be proper and in the event of it being found that the same was part of the asset of the accused Officer, it will be difficult to recover the same.

4. The learned Special Judge by order dated 10-10-2012 found that no satisfactory evidence was produced to show that the cash so seized by the ACB officials belong to the petitioner/wife but not to the respondent/accused Officer. The learned Counsel submits that the diary that was maintained by the petitioner/wife was produced in addition to the income tax returns which clearly show that the cash seized from the house belonged to her, a Xerox copy of the entire diary has been produced. It, no doubt, shows that on 03-02-2010 and 05-02-2010, cash amounting to Rs.5,00,000/- was received. This diary was seized from the house of the accused Officer. This is not an Account Book of the business of Sharanya Poultry Farm, which the petitioner/3rd party claiming to be doing the business. It is not certified by any officials. It is only a kacha account and it is not known who made the entries. It do not contains the signature of any responsible person. Merely because some entries are made in the year 2010, in the diary belonging to 2009, in the absence of any specific evidence that the cash seized from the house was the amount belonging to the business of the petitioner/wife, it cannot be concluded that the amount so seized is not part and parcel of the disproportionate income of the accused Officer. At this stage, a *prima facie,* view has to be taken and it is the matter of evidence as to whether the amount so seized belongs to the petitioner/wife/3rd party or it belongs to the accused Officer.

5. Learned Counsel appearing for the petitioner relies upon a decision of the Supreme Court reported in **GIAN CHAND & BROTHERS v. RATTAN LAL @ RATTAN SINGH (LAWS (S)-2013-1-13)**, wherein it is laid down that accounts regularly maintained in the course of business are to be taken as correct unless there are strong and sufficient reasons to indicate that they are unreliable. There is no dispute that the above proposition of law. However, in the instant case, the diary that is produced is not the Account Book that is maintained by the petitioner/wife in the regular business. When the petitioner/wife claims to have huge turn over, she ought to have

produce authenticated accounts to show that she was having cash balance of Rs.5,00,000/- in hand which was kept in the almirah of the house, which, no doubt, belongs to her husband. In the charge-sheet that is filed, the prosecuting agency has taken into consideration the business of poultry farm as belonging to the accused Officer and even the cash of Rs.5,00,000/- from the house has been shown. Therefore, at this stage, expressing any opinion about the source of the said amount will not be roper and since the case is ready for trial, that it is but proper that the disposal of the said cash can be withheld till the final adjudicating of the case. Learned Special Judge has taken correct view of the matter and dismissed the petition filed by the petitioner/wife to return cash of Rs.5,00,000/-. I see no reasons to interfere with the said finding and hence the revision is liable to be dismissed. Needless to say that none of the observations made in these proceedings shall, in any way, influence the final adjudication. Subject to the above the Criminal Revision Case is dismissed.

6. In the result, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this case shall stand closed.

M.S.K.Jaiswal, J

6th August, 2015
smr