

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Crl.R.C.Nos.1429, 1432, 1436 and 1467 of 2015

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COMMON ORDER

Since all these revisions arise out of the common order, dated 02.07.2014 passed in Crl.M.P.Nos.224, 225, 226 and 227 of 2014 by the learned I Additional Special Judge for SPE and ACB Cases-cum-V Additional Chief Judge, City Civil Courts, Hyderabad, the common order is being passed.

2. The petitioner in Cr.R.C.No.1429 of 2015 was convicted for the offence under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentenced to undergo three years rigorous imprisonment and also to pay a fine of Rs.1,00,000/- in default to undergo simple imprisonment for a period of four months vide judgment dated 17.12.2013 in C.C.No.33 of 2008. While convicting the accused, the trial Court directed that an amount of Rs.50,26,605/-, which is assessed as the value of the disproportionate assets of the accused, shall be confiscated to the State under Section 452 Cr.P.C., after the appeal time is over. It also directed the accused to deposit the said amount before the Court within four months from the date of the judgment, failing which the State shall take steps for realization of the amount by selling his assets mentioned in Annexure-I appended to the charge sheet. The trial Court further directed that in case of compliance of the said condition of depositing the amount by the accused or in the alternative, the realization of the said amount by the State, all the documents of title to the properties of the accused and also the other material

seized from the house of the accused under separate made-up files by the investigating agency during the course of the searches conducted in the process of investigation including M.O.2 gold ornaments and the amount covered under M.O.1 shall be returned to the accused on proper identification under Section 452 Cr.P.C. after the appeal time is over. The key of the Maruthi car of Smt Sasikala, the then Superintendent of M.P.D.O., Kalwakurthy, Mahabubnagar District, the petitioner in CrI.R.C.No.1436 of 2015, seized by P.W.38 under Ex.P5 and also two made-up files relating to her properties seized under Ex.P9 by P.W.37 shall be delivered to her and Ex.X7 Service Register of late Smt Pushpa Jagadeeshwar Rao, being the official record, shall be delivered to the Office of the Director, Department of Adult Education, Hyderabad under Section 452 Cr.P.C., after the appeal time is over.

3. In compliance of the said direction, the accused had deposited a sum of Rs.50,26,605/-. Since he deposited the amount as ordered by the trial Court, he filed CrI.M.P.No.224 of 2014 seeking to issue the letters to the concerned Banks to defreeze and activate the accounts and to return all the original documents and to order for the payment of the deposits in the Indian Bank and to return the gold ornaments to the petitioner. The wife of the petitioner, by name R.Sulochana, filed CrI.M.P.No.225 of 2014 seeking to order for return of the original documents pertaining to the document No.2057/1995 of the plot at Miyapur and document No.359/1997, Flat No.G1, Madhura Apartments, Anandnagar, Hyderabad and document No.439/2004, Flat No.3091, Laxmi Sandhya Apartments, Anandnagar, Hyderabad and to direct the Investigating Officer to return locker No.122 with SBH, Bellavista Branch, Somajiguda, Hyderabad. CrI.M.P.No.226 of 2014 is filed

by one Smt S. Sandhya seeking to issue necessary instructions to the Chief Manager, ING Vysya Bank Khairatabad, Hyderabad to defreeze and activate the savings bank A/s.No.76010007761 belonging to her and also to order for return of passbook and cheque book and to return original RC book of Kinetic Swift bearing No.AP 09 AD/5543 to her. CrI.M.P.No.227 of 2014 is filed by Smt Sashikala seeking to return the original registration document No.140/2003 and 141/2003 registered at Jadcherla Sub-Registrar Office, Mahabubnagar and the original document No.2220/98 and 3736/2000 registered at Sub-Registrar's Office, Mahabubnagar and to the key of the Alto Car bearing No.AP 22 G 7989 and all the documents seized under Exs.P58 and P59. By the common order impugned, all these applications were dismissed by the trial Court on the ground that as the appeal being CrI.A.No.1186 of 2013 filed by the accused against the judgment dated 17.12.2013 in C.C.No.33 of 2008 is pending before this Court and the matter has already been seized by this Court. Challenging the same, these revisions are filed.

4. Learned counsel for the petitioners in all these revisions contended that as the accused had complied with the direction of the trial Court by depositing the amount of Rs.50,26,605/- within the stipulated time, they are entitled to return the properties as sought for by them. He further submitted that since the State also has preferred an appeal in CrI.A.No.840 of 2015 against the direction for return of the properties in case of compliance of the condition by the accused and obtained interim suspension, the petitioners are entitled to return all the documents, properties and articles as prayed for.

5. The learned Special Public Prosecutor for ACB has also

brought to the notice of this Court that the State has preferred an appeal against the order passed by the trial Court insofar as return of the documents and articles are concerned and obtained interim suspension of the said order relating to deposit of a sum of Rs. 50,26,605/- by the accused.

6. At this stage, it is contended by the learned Counsel for the petitioners that in view of the suspension of the order for deposit of a sum of Rs.50,26,605/-, the amount already deposited in pursuance of the order of the trial Court may be ordered to be refunded to the accused.

7. In the facts and circumstances of the case and in view of the pendency of the appeals filed by the accused as well as the State against the conviction and sentence passed in C.C.No.33 of 2008 dated 17.12.2013 and in view of the order of suspension passed by this Court in CrI.A.No.840 of 2015 filed by the State insofar as deposit of a sum of Rs. 50,26,605/- by the accused is concerned, this Court is of the view that the amount of Rs.50,26,605/- deposited by the accused, which is lying in F.D.R.No.315103 dated 02.04.2014, can be refunded to the accused i.e., petitioner in CrI.R.C.No.1429 of 2015.

8. Accordingly, the trial Court is directed to return the amount of Rs.50,26,605/- which is lying in F.D.R.No.315103 dated 02.04.2014, to the accused, i.e., petitioner in CrI.R.C.No.1429 of 2015.

9. In view of the fact that pending these revisions, this Court has suspended the order passed by the trial Court in connection with the return of the documents, in the Criminal Appeal filed by

the State, the grievance of the petitioners that the documents were not returned by the trial Court does not survive and hence, the revisions for return of documents become infructuous.

10. Accordingly, all these Criminal Revision Cases are disposed of as infructuous. Miscellaneous petitions, if any, pending in these revisions, shall stand closed.

RAJA ELANGO, J

10th September, 2015.

sj/nn