

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 407 of 2016

ORDER:

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The present Revision is filed under Sections 397 and 401 of the Code of Criminal Procedure, questioning the order dated 05.01.2016 passed in CrI.M.P. No.638 of 2015 in Cr.No.8/ACB.CR I/2014 by the Principal Judge for SPE and ACB Cases-cum-IV Additional Chief Judge, City Civil Courts, Hyderabad.

The facts, which lead to filing of the Revision, are as under :

The investigating agency filed an application under Sections 3 and 4 of the Criminal Law Amendment Ordinance 1944 requesting the Court to pass an ad-interim attachment order attaching the movable and immovable properties of the respondents 1 to 7 therein as per Annexure I to VII enclosed to the G.O.Ms.No.71 dated 30.05.2015 Revenue (Vigilance III), Department. It is the case of the prosecution that on reliable information that the accused was found in possession of assets disproportionate to his known sources of income, the above case came to be registered and during the search documents pertaining to movable and immovable properties and also gold were seized. Since the properties seized were disproportionate to known sources of income of the Accused Officer, a letter was addressed to the D.G., A.C.B., Hyderabad, who after addressing a letter to the Government ordered to Authorize the Investigating Officer to approach the Court for attachment of the properties of the properties mentioned in Annexure I to VII attached to G.O.Ms.No.71 dated 30.05.2015. The said attachment application came to be filed with a view to prevent the Accused Officer from alienating the said properties since the investigation is still pending. A counter came to be filed by all the respondents denying the averments made in the said application. A detailed explanation was given showing how the properties shown in

the Annexures belonging to respondents 2 to 7 and also some of the properties were purchased from the funds raised by them. After considering the rival submissions made, the Court while allowing some of the items rejected some. Challenging the same, the present Revision is filed.

As seen from the order, the trial court allowed Items 1 to 3 and 5 in Annexure-I. Both the items in Annexure-II were allowed, Serial No.1 to 3 in Annexure-III are allowed while rejecting Serial Nos.4 and 5. Serial Nos.1 to 3 in Annexure-IV were allowed while rejecting the request of Item No.4. Serial Nos.1 and 3 in Annexure-V were also allowed, whereas Serial No.2 in Annexure-V was rejected. Insofar as Annexure-VI is concerned, Serial Nos.1, 3 and 4 are allowed and Serial Nos.2 and 5 are rejected and the sole item in Annexure-VII was rejected. The directions were given to the Bank Authorities to allow respondent No.7 to operate the Bank Account in Annexure-VII. The interim attachment order with regard to the above property was made absolute.

A perusal of the impugned order would show that the trial court while allowing the attachment of some of the items, rejected for some. Therefore, it cannot be said that there was non-application of mind by the trial court while passing the orders of attachment. But a perusal of the Bank statements filed by the petitioners would show that some amounts were sent from U.S.A., by their son, which were credited into the account of Srinivasulu at State Bank of Hyderabad, Tulasinagar Branch, Hyderabad. The statement of the account also shows withdrawals made from the said account.

The learned counsel for the petitioner submits that the withdrawals from the account of Srinivasulu who is living with the Accused Officer if taken into consideration, the amount would run into lakhs. But as held in the earlier applications the said withdrawals made does not correlate with the purchase of the immovable

properties during the relevant time. Hence, it is to be inferred that the withdrawn amount either must be lying in the house or must have been spent for some other purpose. That being the position, withholding or attaching small amounts of cash recovered from him, during the search, may not be proper. Accordingly amount of Rs.20,000/- in Annexure-I can be released. The attachment of small amounts in the Bank balance which are reflected in Item Nos.1 and 2 of Annexure-II, Serial Nos.4 and 5 of Annexure-III, Item No.4 in Annexure-IV, Item No.3 in Annexure-V and Item Nos.2 and 3 in Annexure-VI and Item No.1 in Annexure-VII, can be freed from attachment. Since the investigation is still pending and as the order under challenge came to be passed after perusing all the documents, I see no reason to interfere with the order except to the extent indicated above.

Accordingly, the Criminal Revision Case is allowed to the extent indicated above. As a sequel to it, miscellaneous petitions pending if any, in this Criminal Revision, shall stand closed.

C.PRAVEEN KUMAR,J

Dt:25.04.2016
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