HON'BLE SRI JUSTICE SURESH KUMAR KAIT

Crl.P. No. 15067 of 2016

DATE: 07.11.2016

Between:

Hima Sivangi @ Himabindu Sivangi .. Petitioner

And

1. The State of Telangana
2. Mohammed Afroz .. Respondents

<u>O R D E R</u>:-

This Criminal Petition is filed under Section 438 Cr.P.C. seeking to grant anticipatory bail to the petitioner-A3 in the event of her arrest in connection with Crime No.614 of 2016 of S.R. Nagar Police Station which has been transferred to C.C.S. Police Station, Hyderabad, registered for the offences punishable under Sections 420 and 406 read with 34 IPC.

The case against the petitioner-A3 and other co-accused is that they have collected huge amounts from the general public to a tune of Rs.20.00 crores from October, 2013 to February, 2016 by making false promises and commitments. It is alleged that the *de facto* complainant – Mohammad Afroz and Shaik Irshad(A1) were friends for many years. Afroz went to Saudi Arabia where he has been working for many years and earning substantial income. Three years ago, A1 approached the *de facto* complainant and asked him to invest NRI funds into firms and companies and thereby promised to pay lucrative returns. Believing his version, the *de facto* complainant invested crores of rupees since October, 2013 to February, 2016 and A1 provided some returns and profits to the investors for sometime. Moreover, A1 also approached his friends and relatives and collected huge amounts from them in India and abroad by way of receiving deposits into the firms/companies/personal accounts of A1 and his associates. The *de facto* complainant and his associates invested nearly Rs.8.05 crores. A1 paid profits/returns to the investors up to October, 2015, and thereafter, failed to pay the amounts by telling them that his firms incurred losses. When the *de facto* complainant and his associates demanded A1 to return the money, he absconded from this country since May, 2016. The *de facto* complainant received threatened calls and messages from A1 asking him not to pressurize for the amounts and hence he lodged a complaint to the police which is registered as Cr.No.614 of 2016.

The present petition is filed on the ground that the petitioner, who is former wife of A1, while working in a private firm, fell in love with A1 and married him on 26.12.2012. Thereafter, they lived together as husband and wife. After the marriage, the petitioner was confined to the house only. She does not know anything about the businesses run by her husband. Her husband failed to take care of the petitioner and did not even provide her minimum necessities and the disputes went to peak stage and ultimately they obtained divorce on 09.06.2016.

The learned counsel for the petitioner has submitted that about 10 days ago, one of the respondents came to the petitioner's house, quarrelled with her about the case in

I.P.No. 40 of 2016 instituted by A1 before the Court of Additional Judge, City Small Causes Courts, Hyderabad and threw xerox copy of the Insolvency Petition on the face of the petitioner and told that they filed a criminal case against her also and threatened her with dire consequences. Thus, she came to the know about the details of the businesses done by A1.

The learned counsel for the petitioner has further submitted that the petitioner is neither a partner nor Director in any firm or company. Even assuming for a moment, if any role was found about the petitioner, it was done by A1 only without her knowledge and consent.

The *de facto* complainant was impleaded as 2nd respondent in the present Criminal Petition vide order dated 31.10.2016 passed by this Court in Crl.P.M.P.No. 17645 of 2016. In the present Criminal Petition, liberty was granted to the impleaded – 2nd respondent to file certain necessary documents for adjudicating the present petition, and accordingly, when the *de facto* complainant tried to file such documents, due to mis-communication, the Registry refused to receive them however, advance copy was supplied to the learned counsel for the petitioner and copy of the same is taken on record.

The learned counsel for the 2nd respondent has drawn the attention of this Court to the documents relied upon by the petitioner at page 19 and submitted that the petitioner has nothing to do with proprietorship of Orbit Solutions wherein Mohammad Rafi Ahmed Shareef and the 2nd respondent herein are the business partners, however, the said document is nothing but photocopy of visiting card created by the petitioner herself.

The learned counsel for the 2nd respondent has brought to the notice of this Court that in I.P.No. 40 of 2016 filed by A1 i.e. husband of the petitioner herein against investors including the *de facto* complainant, it is stated that A1 was staying separately from his wife in a fit of anger for the last half a decade or so, thus, the petitioner is not connected with any of his businesses or transactions made. It is further stated that A1 left alone to face the world where he is surrounded by cheaters.

However, the learned counsel has specifically drawn the attention of this Court that the I.P. was filed on 09.06.2016, and on the same day, a Memorandum of Understanding for divorce was arrived at between the petitioner and A1 just to mislead this Court so that the petitioner can be granted bail. The petitioner along with A1 is in the habit of creating certain documents to convince this Court and get the relief. The petitioner's husband-A1 left India after collecting huge amounts and now he is settled in Australia. The petitioner is also trying to get bail from the Court and leave the country to join A1 and thereafter they will not come to this Court.

In pursuance of the order dated 31.10.2016 passed by this Court, the 2nd respondent filed different agreements executed between different investors, consists of 89 pages, with Orbit Solutions represented by the petitioner who signed all the agreements. Moreover, the petitioner signed cheques which are at page No.53 of the documents filed by the 2nd respondent. Thus, the petitioner cannot claim that she has nothing to do with the businesses carried out by A1.

It is pertinent to mention here that the petitioner, brother of A1 and A2 started another company in the name and style "Florem Studio Private Limited" registered under the Companies Act, 2013 on 08.07.2015 whereon the signatures of the petitioner with photographs are affixed. In addition to the above, Income-tax Return Verification Form was also signed by the petitioner for Orbit Solutions.

Thus, in view of the facts recorded above, it is established that the petitioner along with other co-accused actively participated in cheating racket and looted innocent persons. They collected more than Rs.23.00 crores from various investors and Rs.8.00 crores from the *de facto* complainant and some other investors.

The learned counsel for the petitioner, in order to justify the petitioner's case, has produced a letter dated 04.11.2016 from Just Dial Limited issued by Sparsha Mahendra, Deputy Manager-Human Resources, Hyderabad certifying that the petitioner is working as Assistant Manager-Business Development since 23.02.2009 and another letter dated 04.07.2014 from the same company issued by Manjari Anantha, Senior Manager – Human Resource) whereby it is stated that based on the performance, the petitioner was promoted as "Senior Team Lead" with effect from 01.06.2014. These documents are taken on record.

It seems that the aforementioned letters are issued just to help the petitioner, however she in fact never worked with Just Dial Limited (CIN L74140MH1993PLC150054).

Keeping in view the facts recorded above, I find no merit in the Criminal Petition, and the same is accordingly dismissed.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

Before parting with the present case, I hereby issue Show Cause Notices to Sparsha Mahendra, Deputy Manager-Human Resources, Just Dial Limited, Hyderabad who issued letter dated 04.11.2016 and Manjari Anantha, Senior Manager – Human Resource, Just Dial Limited, Hyderabad who issued letter dated 04.07.2016 directing them to explain as to whether the petitioner worked with them or they just issued these letters in order to help her in the present case.

Sparsha Mahendra and Manjari Anantha shall file affidavits to this effect along with documentary proof and personally remain present before this Court on the next date of hearing. They shall also produce original record in the Court.

List the matter on 17.11.2016 under the caption "for appearance".

SURESH KUMAR KAIT, J

07.11.2016

bcj

[See another appearance order dated 17/11/2016 is contd. on page No.9]

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

[Special Original Jurisdiction]

THURSDAY THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION NO. 15607 OF 2016

Between:

Hima Sivangi @ Himabindu Sivangi Petitioner/A3
V/s.

The State of Andhra Pradesh
Rep. by its Public Prosecutor [AP]
High Court of Judicature for the State
Of Telangana & Andhra Pradesh
Hyderabad.
Through Station House Officer,
CCS Hyderabad Police Station,
[Cr.No.614/2016 SR Nagar Police Station]
Hyderabad district & Anr. ... Respondent

Counsel for the Petitioner: Sri Ganduri Nageswara Rao

Counsel for the Respondent: Public Prosecutor [AP] for R-1
Sri P.Vamsheedhar Reddy for R-2

The court made the following: [order follows]

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION NO. 15067 OF 2016

ORDER:

While dismissing this Criminal Petition on 7/11/2016, this Court issued show cause notices to Sparsha Mahendra, Deputy Manager, Human Resources, Just Dial Limited, Hyderabad, who issued letter dated 04/1/2016 and Manjari Anantha, Senior Manager, Human Resources, Just Dial Limited, Hyderabad, who issued letter dated 04/7/2016 directing them to explain as to whether the petitioner, Hima Sivangi @ Himabindu Sivangi, worked with them or they just issued the letters in order to help her in the present case.

2. Pursuant to order dated 07/11/2016 mentioned above, Ms. Sparsha Mahendra, Deputy Manager, Human Resources, Just Dial Limited, Hyderabad is present with relevant service record of the petitioner, Hima Sivangi @ Himabindu Sivangi,

who worked with her since 2009 and getting salary regularly from Just Dial Limited, Hyderabad.

3. After perusal of the service record of the petitioner, no further order is required. The personal appearance of Ms. Sparsha Mahendra and Ms. Manjari Anantha is dispensed with.

JUSTICE SURESH KUMAR KAIT.

17/11/2016
Isl

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION NO. 15067 OF 2016

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