HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 2053 of 2016

ORDER:

Assailing the order dated 03.05.2016 passed in Crl.M.P. No.954 of 2016 in C.C. No.691 of 2013, wherein and whereunder an application filed for discharge of the petitioner/A-2 was dismissed, the present Revision is filed.

The facts in issue are as under :-

On 07.03.2012 at about 6.00 p.m., the S.I. of Police, Kachiguda P.S., received a transfer report in Crime No.323 of 2011 from Abids Police Station, Abids Road, Hyderabad for investigation on the point of jurisdiction. The contents of which reveal that L.W.1-K.U.N.Krishna Murthy, Branch Head of IDBI Capital Market Services Limited, Nampally, Hyderabad is said to have received a 'e' mail complaint from one of their customers by name Mr.Zeeshan Syed, who has a trading account, stating that one of their branch employee by name Ch.Kalyana Chakravarthy, Team leader involved in Financial irregularities. Then L.W.1 gave a complaint to the Station House Officer, Abid Road and the same was registered as FIR in Crime No.62 of 2012 for the offence punishable under Section 420 IPC. During the course of investigation, L.W.12 examined L.W.1 and recorded his detailed statement and also collected relevant copies of documents, two cheques, resignation and suspension order in respect of the accused and other connected documents. He also collected details of the amounts remitted into the accounts of the accused through cheques issued byL.W.2. From the collected documents it was found that amounts were remitted into the accounts held by A-1. The details of which are mentioned in the charage-sheet. Further, the investigating agency also collected the bank details of the petitioner and was learnt that on the advise of A-1, L.W.2 transferred amounts thrice i.e., Rs.1,00,000/- on 06.01.2011, Rs.1,00,000/- on 07.01.2011 and

Rs.90,000/- on 08.01.2011 from his ICICI Bank account into the ICICI bank account that was given to L.W.2 by A-1. A-2 is alleged to have withdrawn the said amount from her account. As per the investigation and as per the material collected by the police during the course of investigation, it is revealed that accused opened NRE and D-mat accounts and numbers are 4401500447 (client code) and 13919085 (D-mat A/c) respectively. As the point of contact at IDBI capital market services Ltd., of L.W.2 was A-1, L.W.2 used to contact A-1 for investment of his amounts. On the advise of A-1, L.W.2 issued cheques for various amounts and A-1 used to inform L.W.2 that he bought shares in his D-mat account. Further, an amount of Rs.3 lakhs was transferred on 08.06.2011 through online to the A/c.No.59410400015677 as suggested by A-1. Apart from that amounts were also transferred to the account of A-2 on instructions of A-1. After transferring huge amounts on instructions of A-1, L.W.2 realized that A-1 did not bought any shares in his name at any point of time except mailing him that A-1 bought several different company shares in L.W.2's name. On realizing that L.W.2 was cheated by A-1, L.W.2 sent an 'e' mail to the Customer Care Department on 23.09.2011 of IDBI Capital Services alleging the fraud committed by A-1. After completion of investigation in the crime, the police filed charge-sheet, which was taken on file as C.C. No.691 of 2013. Pending the proceedings, the petitioner herein filed Crl.M.P.No.954 of 2014 seeking discharge, which was dismissed. On 03.05.2016. Challenging the same, the present Revision is filed.

Learned counsel for the petitioner mainly submits that even accepting the allegations in the charge-sheet to be true no offence is made out against the petitioner. Learned counsel for the petitioner mainly urged that the only allegation made against the petitioner is that amounts were transferred to the account of A-2 at the instance of A-1 and the said amount was withdrawn. There is no material to show that the amount which was transferred is the amount alleged to have been obtained by playing fraud. The same is opposed by the learned Additional Public

Prosecutor.

As seen from the record, L.W.2 who is a victim opened trading account in IDBI Bank and A-1, who is the incharge of the Branch made the victim to believe that he would get good profits and got the amount deposited by the victim. Later the said amount was transferred to the account of A-2, who withdrew the same. A perusal of the averments in the charge-sheet and also the order under challenge show that the amount of Rs.2,90,000/- was transferred into the account of A-2, which she withdrew. The Bank account of the petitioner show that A-1 deposited the amount between 06^{th} to 08^{th} January 2011. The said fact is spoken to by Sri V.Venugopal, who is the Branch Manager of ICICI Bank, Khairatabad branch and also by the other witnesses, who speak about transfer of money to the account of A-2. Since the material collected by the prosecution *prima-facie* disclose transfer of the amounts alleged to have been obtained by playing fraud into the account of A-2, it is too pre-mature to say that the petitioner is innocent of the offences alleged against him.

Having regard to the above, I see no merits to discharge the accused. However, the petitioner is a lady and taking into consideration the nature of the offence involved, her presence is dispensed with before the trial court in C.C. No.691 of 2013 except on the dates when her personal appearance is required. Further, it is to be noted that the petitioner shall not dispute the examination done by her counsel in her absence. If she wish to oppose any document or disputes the identity, she may have to appear on the date so fixed and contest the same.

With the above observation, the Criminal Revision Case is dismissed. As a sequel to it, miscellaneous petitions pending if any, in this Revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 16.08.2016
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