IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2436 OF 2017

Om Enterprises ..Petitioners
Versus
The Inspector of Police Incharge,
Cuffe Parade Police Station and ors. ..Respondents

Mr. Vaibhav V. Ugle, advocate for the petitioners.
Mr. A. R. Kapadnis, APP for the State.

CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, J J.

DATE : 28th NOVEMBER, 2017.

P. C. :

Heard Mr. Ugle, learned counsel for the petitioners and Mr. Kapadnis, learned APP for the State.

2. By this petition, the petitioner is challenging the letter/order dated 9th August, 2016 written/issued by the Inspector of Police, Unit-I, E.O.W.,Mumbai, thereby directing the Branch Manager, IDBI Bank, Hadapsar Branch, Pune, to earmark the amount of Rs.1,41,825/- from the petitioner's account No.1021102000005175.

3. The petitioner is a proprietary firm and is into the business of sales and service of survey instruments, material testing and laboratory instruments. The petitioner supplied one compression testing machine to one Shree Kedar Infrastructure Pvt.Ltd. for total

amount of Rs.1,41,825 on 16th August, 2011 and payment of which was received on 16th November, 2011.

4. The Asst. Inspector of Police, Unit – I, Economic Offences Wing, Mumbai, on the basis of complaint of Mr. Kaushik Chakraborty, Deputy General Manager of M/s. Tata Value Home Ltd, has registered FIR bearing CR No.52 of 2014 (Old CR No.67 of 2014 with Cuffe Parade Police Station) for the offences punishable under Sections 465, 467, 468, 471, 472, 474, 420 and 120-B of the Indian Penal Code, 1860, against M/s. Shree Kedar Infrastructure Pvt.Ltd.. During investigation, it was revealed that the amount of Rs.1,41,825 was transferred by the accused - Shree Kedar Infrastructure Pvt.Ltd. in the above mentioned account of the petitioner on 15th/16th November, 2011. The impugned letter/order was, therefore, issued by the respondent No.2 to the Branch Manager, IDBI Bank, Hadapsar Branch, Pune, to earmark the said amount of Rs.1,41,825/- transferred in petitioner's account No.1021102000005175. The petitioner, being aggrieved by the same, approached this Court.

5. Having considered the rival submissions, we find that the petitioner has sold the compression testing machine to Shree Kedar Infrastructure Pvt.Ltd. for an amount of Rs.1,41,825/-. The machine was sold as long back as on 16th August, 2011 and the petitioner received payment in respect of the same on 15th/16th November, 2011. the

transaction is supported by delivery challan and tax invoice which are annexed at Exhibit C, pages 20-21. The subject FIR is registered on 29th April, 2014. Thus, the transaction in question was made three years prior to the registration of the offence. In the above said circumstances, we are of the view that there is no justification for respondent No.2 to issue the impugned letter/order and direct the Branch Manager, IDBI Bank, Hadapsar Branch, Pune to earmark the said amount, since the alleged amount is transferred to the petitioner by the accused is explained. The impugned letter/order cannot be sustained especially when the petitioner is not an accused in the subject crime and nor is there any material against him that he has colluded with the accused in any way. We, accordingly, allow the petition in terms of prayer clause (a). Consequently, the impugned letter/order dated 9th August, 2016 issued by the Inspector of Police, Unit-I, E.O.W.,Mumbai, thereby directing the Branch Manager, IDBI Bank, Hadapsar Branch, Pune, to earmark the amount of Rs.1,41,825/- from the petitioner's account No.1021102000005175 is quashed and set-aside.

6. The writ petition stands disposed off.

[DR. SHALINI PHANSALKAR-JOSHI, J.] **[RANJIT MORE, J.]**