IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.11.2017

Pronounced on : 17.11.2017

Coram:

The Hon'ble Dr.Justice G.Jayachandran

Criminal Revision Case No.1334 of 2017

Haleem Rice Mill, Perambalur
Rep.by its Sole Proprietor,
A.Raja Jawahar Haleem .. Petitioner

/versus/

The Superintendent of Police,
CBI/ACB Chennai,
in Cr.No.RC(6A)/2017 .. Respondent

Criminal Revision Case is filed under Section 397 of the Criminal Procedure Code read with Section 401 of the Criminal Procedure Code praying to set aside the order of the II Additional District Judge(Special Court for CBI Cases) Coimbatore in Crl.M.P.No.1804 of 2017 dated 28.09.2017 and pleased to order unfreezing of the petitioner's current account in HDFC Bank, Preambalur current A/c No.50200000095771 by allowing the criminal revision petition.

For Petitioner :Mr.E.P.Pradeesh

For Respondent :Mr.K.Srinivasan,
Spl.Public Prosecutor for CBI Cases

O R D E R

The petitioner seeks indulgence of this Court to de-freeze his account, which has been frozen by CBI in connection with Crime No.RC(6A)/2017, filed against one K.Franklin Prakash.

2. The case against the accused Franklin Prakash is that while he was serving as a Junior Account Assistant in Southern Railway, Salem, he embezzled a sum of Rs.1.38 crores, collected from the Employees of the Railway towards their professional tax. He had remitted the money into his account, his wife's account and friends' account instead of remitting into the account of Local Body and thereby, committed offence of breach of trust, cheating and misconduct.

3. According to the prosecution, during the course of investigation, pursuant to the conspiracy, the accused Franklin Prakash Yesuraj, by abusing his official position has conspired with the petitioner herein and siphoned the fund of Southern Railway, Salem nearly Rs.13.50 lakhs from IDBI Bank of Salem and had transferred to HDFC Bank at Perambalur, which stands in the name of the petitioner herein. Further, the investigation reveals that the petitioner A.Raja Jawahar Haleem has withdrawn Rs.5 lakhs from out of Rs.13.50 lakhs, which was transferred to his account by Franklin Prakash Yesuraj and given that money to one Sri.Imran Khan. The Bank Account through which the Railway money was siphoned has now been frozen under Section 102 of the Criminal Procedure Code and the same has been intimated to the II Additional District Judge (CBI Cases), Coimbatore as per the law. The Current Account No.50200000095771 in HDFC Bank at Perambalur has to be frozen till the completion of the investigation. If the account is de-freezed, there is every possibility of distorting the evidence.

4. However, the petitioner submits that on the date of freezing his account, Rs.13,49,975/- was in its credit. It is not the proceeds of the crime as alleged by the investigating agency. In any event, the petitioner is ready to co-operate with the investigation. The money lying in the said account shall be transferred to his account and the petitioner may be allowed to operate his current account No.50200000095771, HDFC Bank, Perambalur, so that his business operation will not be stagnated.

5. The learned Special Public Prosecutor for CBI Cases submitted that there is a strong evidence to indicate that the money lying in the account of the petitioner is proceeds of crime, which was siphoned from the account of the Southern Railway, Salem with the help of the accused Y.Franklin Prakash (A1). Therefore, it has to be forfeited and the prosecution is under the process of forfeiting the money, since it is proceeds of crime. However, if the petitioner is ready to deposit equivalent amount into the crime number before the trial Court, the prosecution has no objection for unfreezing the petitioner's bank account.



5. In the light of the above submissions, this Court is of the opinion that if the petitioner deposits Rs.13,49,975/- to the credit of Crime No.RC 6(A)/2017 CBI ACB/Chennai, the account of the petitioner can be de-freezed.

6. Accordingly, this Criminal Revision Case is allowed on condition that the petitioner shall deposit Rs.13,49,975/- to the credit of Crime No.RC 6(A)/2017 CBI ACB/Chennai on the file of the II Additional District Judge(CBI Cases), Coimbatore. On

such deposit, the learned trial Judge shall order de-freeze of the said account and permit the petitioner to operate his account.

Accordingly, the Crl.O.P. is disposed off.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The II Additional District Judge(CBI Cases), Coimbatore.

2.The Superintendent of Police, CBI/ACB Chennai,

3.The Special Public Prosecutor(CBI Cases), High Court, Madras.

+2cc to Mr.E.P.Pradeesh, Advocate in sr.no.81863

Crl.R.C.No.1334 of 2017

NR 24/11/2017