BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Crl.O.P.(MD) No.19679 of 2016
and
Crl.M.P(MD)No.9962 of 2016

Pravin Vignesh,
Branch Manager,
Karur Vysya Bank,
Tallakulam Branch,
Madurai. : Petitioner/Accused No.2

-vs-

1. The Sub Inspector of Police,
   Tallakulam Police Station,
   Madurai City, Madurai. : 1st Respondent/Complainant

2. M.Kavitha : 2nd Respondents/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.1987 of 2016 on the file of the Sub Inspector of Police, Tallakulam Police Station, Madurai City, Madurai and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.D.Sadiq Raja

For 1st Respondent : Mr.A.P.Balasubramani
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.R.Gandhi

O R D E R

This petition has been filed to call for the records in Crime No.1987 of 2016 on the file of the Sub Inspector of Police, Tallakulam Police Station, Madurai City, Madurai and quash the same in so far as the petitioner is concerned.

2.The case of the prosecution is that the de-facto complainant is the daughter of the accused No.1 namely Jeyaraman and Rajam and the said Rajam left her husband and she was under the care of the de-facto complainant and that on 08.11.2014, the said Rajam has deposited a sum of Rs.8,00,000/- under two deposit each bearing value of Rs.4,00,000/- and she nominated the de-facto complainant as nominee and the date of maturity is 07.12.2016. It is the further case of the prosecution that the said Rajam died on 17.06.2016 and that on 20.06.2016, the de-facto complainant approached the petitioner's bank and sought for the deposit amount of Rs.8,00,000/-, but the petitioner asked her to come after a week and subsequently on 29.06.2016, when the de-facto complainant approached the petitioner's bank, the petitioner has stated that he gave the deposit amount of Rs.8,00,000/- to the accused No.1 Jeyaraman, who is none other than the father of the de-facto complainant and the petitioner has released the amount to A1 even before the maturity date and thereby, they have committed the act of forgery and cheating.

3.The learned counsel appearing for the petitioner would submit that the petitioner is working as a Branch Manager and that on 08.11.2014, the mother of the de-facto complainant had deposited a sum of Rs.8,00,000/- under two deposits for a period of 25 months and the de-facto complainant was appointed as her nominee and that the date of maturity falls on 07.12.2016 and that subsequently, the de-facto complainant did not care and maintained the deceased Rajam and she totally deserted her mother and hence, the deceased Rajam had requested the petitioner's bank on 15.06.2016 to add her husband's name as joint deposit holder in the deposits as “Either or Survier” and she also informed that the original deposit receipts are lost and subsequently, she died on 17.06.2016 and the said Jeyaraman had produced the death certificate along with letter of indemnity, dated 24.06.2016 and requested the petitioner's bank to issue duplicate deposit receipt.

4.It is further submitted that the said Rajam executed a Will, dated 10.06.2016 bequeathing her entire estate in favour of her husband and the said Jeyaraman is one of the joint account holders and legatee of the Will and hence, the petitioner's bank issued the duplicate deposit receipt as per the bank procedure and subsequently, the said Jeyaraman being the surviving depost holder closed the said joint account and made new fixed deposit in his single name and that the deposited amount was not paid to anybody and it is lying with the petitioner's bank and that the petitioner's bank called the de-facto complainant and A1 for redress their grievance, wherein the Accused No.1 appeared before the bank and made his statement, but the de-facto complainant did not turn up to the bank and hence, the petitioner has discharged his official duty after fully verification of the records that hence, there is no question of cheating and criminal breach of trust by the petitioner. Hece, he prayed for quashing the FIR filed in Crime No.1987 of 2016.

5.Per contra, the learned counsel appearing for the 2nd respondent would submit that the petitioner without properly verifiing the records joined with A1 and committed the offence of cheating and therefore, the petition filed by the petitioner has to be dismissed.

6.The learned Government Advocate (Criminal side) appearing for the 1st respondent would submit that based on the complaint lodged by the de-facto complainant, after proper enquiry, FIR has been registered against the accused persons and now the case is pending for investigation. Hence, he prayed for the dismissal of the quash petition.

7.Heard both sides and perused the materials available on record.

8.It is seen from the records that the mother of the de-facto complainant has deposited Rs.8,00,000/- under two deposits and appointed the de-facto complainant as her nominee and the maturity date is 07.12.2016.

9.Further, it is seen from the records that A1 has given a letter to the Bank Manager on 13.10.2016 and for that, the petitioner has given a reply stating that it is apparent that your daughter Mrs.Kavitha is claiming right over the same and that FIR is lodged by your daughter before the Tallakulam Police Station and it is pending for enquiry.

10. The learned counsel for the petitioner would mainly contend that on the letter of request given by the deceased Rajam, the name of Jeyaraman was added as "Either or Surviver". Subsequently, new fixed deposit process was issued in the name of Jeyaraman. To prove the above fact, the letter dated 05.08.2016 addressed by the Manager, Karur Vysya Bank Ltd., Madurai Tallakulam Branch, to the Assistant General Manager, Divisional Office, Madurai, was produced and which is also enclosed at page No.19 of the typed set of papers. The said letter dated 05.08.2016 reads as follows:-

"THE KARUR VYSYA BANK LTD
INTER OFFICE COMMUNICATION

To	From
The Assistant General Manager, Divisional Office, Madurai.	The Manager Madurai Tallakulam Branch

Ref : MDU - Tallakulam/23/2016-17 Date : 05.08.2016
Reg : Deposit in the name of Mrs.J.Rajam

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....

After Mr.K.Jayaraman husband of Mrs.J.Rajam had informed that her wife is not well and she is requesting to add his name as joint holder for the above said deposits. We have informed that without deposit holders request, we are not able to add join holder for the said deposit and refused to accept his request. Again he has informed that her wife Mrs.J.Rajam is not able to come to branch, if you can send any of the your officers with him to get request letter from his wife. For the same he and his son J.Raja had given request letter dated 13.06.2016 and a Doctor report dated 09.06.2016. Further, he had also produced a registered will dated 10.06.2016 to us.

In this regard, we have sent one of our officer with him on 15.06.2016 and got letter dated 15.06.2016 for adding Mr.Jeyaraman as joint holder in the deposit as "E or S", vide the said letter it is also informed that the deposit receipts have also lost. After getting the letter from the deposit holder and KYC of Mr.Jayaraman. Branch has added Mr.Jayaraman as joint holder in the deposits as "E" or "S" as per the Bank manual of instruction - chapter - IV (Term Deposits) - (2.14) - Addition or deletion of names (Point No.1). Then on 24.06.2016, it is informed by Mr.Jayaraman that his wife Mrs.Rajam has expired on 17.06.2016 and produced the death certificate for the same along with letter of indemnity."

11. On reading of the above letter written by the Manager, Madurai Tallakulam Branch, it clearly reveals that in the presence of one of the officers of the Karur Vysya Bank Ltd., on 15.06.2016 a letter was got from the deceased Rajam. Hence, one of the officers of the Karur Vysya Bank Ltd., was present during the time of letter given by the deceased Rajam. Further, on the side of the petitioner, they have produced original documents. But they have not produced any document regarding the order passed by the Manager for including the name of Jeyaraman in the particular fixed deposit receipt. On verification of entire materials, it is seen that there is no signature of the Officer of the Bank to show that on the request of the deceased Rajam, it was done in the presence of the Officer of the Bank. There is no order or endorsement of the Manager of the Karur Vysya Bank produced by the petitioner to show that only on the request of the deceased Rajam, the name of Jeyaraman was added as Surviver. Hence, the argument of the learned counsel for the petitioner is not at all acceptable. In the above circumstances, the case was registered against the petitioner and the case is now pending investigation. In the above circumstances, this Court is not inclined to quash the FIR registered against the petitioner and hence, the criminal original petition is liable to be dismissed.

12. Accordingly, this Criminal Original Petition is dismissed

with a direction to the Investigating Officer to complete the investigation within a period of six weeks from the date of receipt of a copy of this order on merits and in accordance with law. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Inspector of Police,
   Tallakulam Police Station,
   Madurai City,
   Madurai.

2. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

+ 1 CC TO Mr.R.GANDHI, ADVOCATE IN SR No. 15873
+ 1 CC TO Mr.PALA RAMASAMY, ADVOCATE IN SR No. 16830

ER
TE/SV-MMS : 20/04/2017 : 5P/5C

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