



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.1697 of 2016

The Regional Provident Fund Commissioner,
Bhavishya Nidhi Bhawan,
N.E.O.'B',
Tirunelveli-627 007.

: Petitioner

-Vs-

1. State through the Superintendent of Police,
C.B.I./ACB/Chennai.

2. V.O.Chelliah
3. C.Chellammal
4. V.Kaliammal
5. Chellammal
6. Thangam
7. S.Chinnan
8. U.Vellapandi
9. Sorimuthu
10.T.Kumar
11.T.Madasamy
12.T.Murugesan
13.C.Mala

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the order passed by the learned Second Additional District Judge for CBI Cases, Madurai, in relating to Crl.M.P.No.1499 of 2014 in C.C.No.15 of 2013, dated 26.11.2014 and set aside the same.

For Petitioner : Mr.K.Murali Sankar

For Respondent No.1 : Mr.N.Nagendran,

Special Public Prosecutor for CBI Cases

For Respondents 2to13 : No Appearance

O R D E R

On the complaint lodged by the Office of the Provident Fund Commissioner, the CBI registered a case in Crime No.RC MA1/2012/A 0046 and after completing the investigation, filed a charge sheet in C.C.No.15 of 2013 before the learned Second Additional District Judge for CBI Cases, Madurai, against O.Paramaiah.



2. It is the case of the prosecution that O.Paramaiah was working as Senior Social Security Assistant in the office of the Employees Provident Fund Organization at Tirunelveli and that he had with dishonest intention transferred a total sum of Rs.22,83,997/- from the EPFO account to pension accounts of 10 EPF pensioners and two beneficiaries, who are the respondents 2 to 13 herein. When the scam came to light, the Office of the Provident Fund Commissioner froze all the pension accounts of respondents 2 to 13, on account of which, they were not able to draw pension. Initially, the Office of the Provident Fund Commissioner felt that respondents 2 to 13 would have connived with O.Paramaiah in defrauding the State. However, the CBI had filed charge sheet only against O.Paramaiah, since the investigation revealed that respondents 2 to 13 were not involved in the offence and they were victims themselves. Therefore, respondents 2 to 13 were enlisted as prosecution witnesses in C.C.No.15 of 2013. The learned Second Additional District Judge for CBI Cases, Madurai, convicted O.Paramaiah in C.C.No.15 of 2013 on 27.11.2014 for the offences under Sections 408, 420, 477A of the Indian Penal Code and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and has sentenced him to various terms of imprisonment, challenging which, O.Paramaiah has filed Criminal Appeal(MD)No.325 of 2014 and the same is pending.

3. While so, the respondents 2 to 13 filed Crl.M.P.No.1499 of 2014 in C.C.No.15 of 2013 before the Trial Court praying for defreezing their pension accounts. The Trial Court, without hearing the Office of the Provident Fund Commissioner, allowed the said application by the impugned order dated 26.11.2014, challenging which, the Regional Provident Fund Commissioner has filed the present petition.

4. Heard Mr.K.Murali Sankar, learned counsel for the petitioner and Mr.N.Nagendran, learned Special Public Prosecutor for CBI Cases.

5. As regards respondents 2 to 13, notices have been served on them, but there is no appearance for them. Since this Court is not passing any order prejudice to their interest, hearing them has been dispensed with.

6. The learned counsel for the petitioner submitted that the Office of the Provident Fund Commissioner was not able to disburse pension to respondents 2 to 13 because the original records have been seized by the CBI and they were marked as Exhibits in C.C.No.15 of 2013. The learned counsel further submitted that without hearing the Office of the Provident Fund Commissioner, the Trial Court has passed the impugned order in Crl.M.P.No.1499 of 2014 in C.C.No.15 of 2013, directing the authorities concerned to defreeze the EPF accounts. Even if the accounts are defreezed, the Office of the Provident Fund Commissioner cannot disburse the pension to respondents 2 to 13 because their original files have been marked as Exhibits in C.C.No.15 of 2013.



7. The learned Special Public Prosecutor for CBI Cases submitted that he has no objection in the accounts being defreezed.

8. It may be pertinent to state here that the Assistant Provident Fund Commissioner filed CrI.M.P.(MD)No.1108 of 2018 in CrI.A.(MD)No.325 of 2014 for return of documents and this Court has today directed the Registry to return the documents by a detailed order.

9. In such view of the matter, this Court is of the view that there may not be any further impediment for the Office of the Provident Fund Commissioner to disburse pension to respondents 2 to 13.

10. In the result, this Criminal Original Petition is devoid of merits and accordingly, the same is dismissed with a direction to the Office of the Provident Fund Commissioner and the CBI to issue necessary directions to the respective Banks to defreeze the pension accounts of respondents 2 to 13, within a period of four weeks from the date of receipt of a copy of this order. In the event of no orders being passed by the CBI, the Banks can themselves defreeze the accounts.

Sd/-

Assistant Registrar (CrI.side)

/True Copy/

Sub Assistant Registrar

To

1. The Second Additional District Judge for CBI Cases, Madurai.
2. The Superintendent of Police, C.B.I./ACB/Chennai.
3. The Special Public Prosecutor for CBI Cases, Madurai Bench of Madras High Court, Madurai.

Copy To:-

1. The Employees Provident Fund Organization, Regional Office, Bhavishya Nidhi Bhavan, NGO "B" Colony, Perumalpuram (PO), Tirunelveli-627 007.
2. The Section Officer, Criminal Section, Madurai Bench of Madras High Court, Madurai. (2 Copies)

+ 1 CC TO Mr.K.MURALI SANKAR, ADVOCATE IN SR No. 48758

SML

TE/GT/SAR-4 : 26/02/2018 : 3P/8C

<https://hcservices.ecourts.gov.in/hcservices/>

Order made in
CRL.O.P.(MD) No.1697 of 2016
Dated: 14.02.2018