BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2018

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD) No.293 of 2017

R.Gopalakrishnan ... Petitioner

Vs.

1.The Sub Inspector of Police,
Woraiyur Police Station,
Tiruchirapalli.

2.ICICI Bank Limited,
ICICI Phone banking Centre,
ICICI Bank Tower 7th Floor,
Survey No.115/27
Plot No.12,
Nanakaramguda Seribrigamapathy
Hyderabad 500 032
India.

3.Branch Manager,
ICICI Bank Limited,
52 Heber Road,
Espce Complex,
Contoment,
Tiruchirapalli.

4.Ramkumar Dass ... Respondents

PRAYER: The Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to the order dated 22.02.2017 made in Crl.M.P.No.418 of 2017 on the file of the learned Judicial Magistrate No.IV, Tiruchirapalli and set aside the same.

For Petitioner : Mr.A.Rajendran

For R1 : Mr.A.Robinson
Government Advocate (Crl.Side)

For R2 & R3 : Mr.J.Alaguram Jothi

ORDER

This criminal revision petition has been filed to set aside the order dated 22.02.2017 in Crl.M.P.No.418 of 2017 on the file of the learned Judicial Magistrate No.IV, Tiruchirapalli.

2.Heard the learned counsel for the petitioner.

3.Based on the complaint given by the petitioner alleging online fraud of Rs.4,72,000/- by the accused Ramkumar Dass, the respondent police has taken up the investigation and directed the ICICI bank, Hyderabad branch, to ascertain the exact money defrauded and kept in the deposit of the accused's account.

4.The application filed by the defacto complainant under Section 451 Cr.P.C., for return of money of Rs.4,72,000/-, and to freeze the account of the accused along with 18% interest, was dismissed by the trial Court on the ground that the case property was not produced before the Court which was not in the custody of first respondent. Aggrieved by that, the present criminal revision case has been filed.

5.It is to be pointed out that the defacto complainant who lost his amount of Rs.4,72,000/- to the accused Ramkumar Dass, is not entitled for any interest even if the money is recovered. As far as the bank account of the accused freezed at the instance of the first respondent, there is no material to show whether Rs.4,72,000/- cheated by the accused was deposited in the said account and available as on the date of freeze.

6.Though enough time has been granted both to the revision petitioner as well as to the concerned bank and the investigating officer, no material is placed before this Court to ascertain the exact amount lying in the account of the accused in ICICI bank, Hyderabad branch.

7.Further, the learned Government Advocate (Crl.Side) for the first respondent would submit that the first respondent has completed the investigation and filed a final report and taken on file in C.C.No.254 of 2018. The accused is absconding and the charge sheet is filed.

8.In the above circumstances, this criminal revision petition is dismissed. The petitioner herein is at liberty to file a fresh petition before the trial Court for return of money. If the money, which is now frozen in the account of the accused is prima facie proved to be the money of the defacto complainant, the trial Court shall pass appropriate order as per Section 451 of Cr.P.C., and the guidelines given by the Hon'ble Apex Court in connection of return of property pending trial.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.IV,
Tiruchirapalli.

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

+1cc to Mr.A.Rajendran, Advocate in SR No.84550
+1cc to Mr.J.Alaguram Jothi, Advocate in SR No.84665

Crl.R.C.(MD) No.293 of 2017

NM/RSK/SAR II/22.11.18/3P/5C.