IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.08.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.RC.NO.767/2019

1.Dr.C.K.Annamalai
2.Dr.A.Saraswathi Chithra Devi
3.Dr.A.Geetha Lakshmi Devi
2 & 3 represented by their
Father and unauthorised representative
Dr.D.C.Annamalai. ..Petitioners/Petitioners

Vs

The Inspector of Police,
Central Bureau of Investigation
Anti Corruption Branch
III Floor, Shashtri Bhavan
No.26, Haddows Road,
Chennai 600 006.
... Respondent/Respondent/Complainant

Prayer:- Petition filed under sections 397 & 401 of Cr.P.C.,1978, to call for the records culminating in the impugned order dated 06.05.2019 passed by the learned Principal Special Judge for CBI Cases, VIII Additional City civil Court, Chennai in Crl.MP.No.1437/2019 in C.C.No.10/2013 and set aside the same and direct the learned Principal Judge for CBI Court cases, Chennai to pay the fine amount of Rs.15 lakhs deposited by the Accused from the said term deposits to the petitioners.

For Petitioners: Mr.T.Mahendran

For Respondent : Mr.K.Srinivasan, Spl.P.P (CBI)

ORDER

1.This criminal revision has been filed by the Petitioner, seeking to call for records, culminating in the impugned order dated 06.05.2019 passed by the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai in Crl.MP.No.1437/2019 in C.C.No.10/2013 and to set aside the same and to direct the learned Principal Judge for CBI Court cases, Chennai to pay the fine amount of Rs.15 lakhs deposited by the

Accused in the term deposits, to the Petitioners.

2.The brief facts of the case are that the Principal Special Judge for CBI Cases/ VIII Additional Civil Court, by Order dated.08.10.2014 in C.C.No.10/2013 had found one Mohamed Maqdoom, guilty and convicted and sentenced him to undergo imprisonment and imposed a fine amount of Rs.22,65,400/-.The trial Court had also directed that the fine amount recovered from the accused way to be paid in the following manner. For easy reference the particular paragraph of the judgement is extracted hereunder:

> " In respect of the Twelfth Charge, the accused is convicted and sentenced to undergo Simple Imprisonment for 40 (Forty) months and to pay a Fine of Rs.1,00,000/- (Rupees On Lakh only) in default to undergo Simple Imprisonment for 10(Ten) months for each Count for the offence under sections 13(2) r/w 13(1)(d) (6 Counts) of Prevention of Corruption Act, 1988. The total Fine amount to be paid in respect of this Charge for 6 Counts is Rs. 6,00,000/- (Rupees Six Lakhs only). Total fine amount to be paid by the accused in respect of all the Charges 1 to 12 is Rs.22,65,400/- (Rupees Twenty Two Lakhs Sixty Five Thousand Four Hundred only). After recovery of the fine amounts imposed in respect of Charge 1 to 6 and out of which it is ordered to pay a sum of Rs.4,50,000/-(Rupees Four Lakhs fifty thousand only) as compensation to PW.5-Mr.Mohammed Munawar under section 357 (1)(b) of Cr.P.C. Similarly, after recovery of the fine amounts imposed in respect of the Charges 7 to 12 and out of which it is ordered to pay a sum of Rs.6,00,000/- (Rupees Six Lakhs only) to PW.&-DR.C.K.Annamalai and a sum of Rs.6,00,000/- (Rupees Six Lakhs only) to Dr.A.Saraswathi Chitra Devi daughter of PW.7 and a sum of Rs. Rs.6,00,000/- (Rupees Six Lakhs only) to Dr.A.Geetha Lakshmi Devi daughter of PW.7 as compensation under section 357(1) (b) of Cr.P.C. All the substantive sentences of imprisonments are to run concurrently. In the event of failure to pay the Fine amounts, the accused is to undergo the default sentences continuously one after another that too after undergoing the default sentences continuously one after another that too after undergoing the substantive sentences of imprisonments. The Office is directed to take steps immediately to recover the Fine amounts if the accused failed to pay the same since default sentences are imposed only as a penalty for failure to pay the fine amounts and not in lieu of fine amounts and thereafter pay compensation amounts as stated supra to PW.5 and to PW.7 and his two daughters. The accused is entitled for remission if any under section 428 of Cr.P.C."

3. As against the impugned judgment of conviction of sentence and imposition of fine, the accused had filed an appeal in Crl.A.No.161/2015 before this Court and this Court vide judgment dated 28.04.2018, had dismissed the appeal and confirmed the judgment passed by the trial Court. The first petitioner who is PW.7, in CC.No.10/2013 and 2nd and 3rd petitioners who are his daughters have filed a miscellaneous petition in Crl.MP.No.1437/2019 under section 357(1) of Cr.P.C., praying the trial Court, to pay the amount of Rs.15,00,000/- (Rupees Fifteen thousand only) lying in Two Deposit Accounts vide Nos.6487559883 dated 17.09.2016 and 6557907839, dated 23.08.2017, in the Indian Bank, Madras High Court Branch, Chennai, equally to the petitioners.
4. Before the Trial Court, the respondents have filed a counter, stating that the trial Court by order dated 12.03.2015, had issued warrant for recovery of fine amount, directing the Collector of the District of Chennai, to recover a sum of Rs.22,65,400/-(Rupees Twenty Two Lakhs Sixty five Thousand and Four Hundred only) from the accused and that the Collector of Chennai, vide order in Pro.No.G2/7719/2015 dated 11.04.2015, had issued a direction, authorising the Tahsildar, Perambur Taluk to recover the fine amount from the accused/Mohammed Maqdoom and that appropriate orders may be passed.
5. During the enquiry of the petition before the trial Court, the petitioners have filed the copy of the reply, received from the Collector, under the RTI Act wherein, it had been stated that the amount of Rs.15 Lakhs had been recovered from the defaulter-Thiru. Mohammed Maqdoom and was deposited with the Principal Special Judge for CBI Cases, vide Account No.6557907839 (Indian Bank) as detailed below:

S.No	Amount recovered	Receipt no/date	Bank
1.	Rs.5,00,000/-	0525725/17.9.2016	Indian Bank
2.	Rs.10,00,000/-	0388126/23.8.2017	Indian Bank

6. However, the learned Trial Judge after due enquiry and verification of records and ascertaining that the accused had not so far paid any fine amount before the trial Court, has dismissed the petition, against which the present revision has been filed.
7. This Court heard the learned on both sides.
8. The learned counsel for the petitioners would submit that the petitioners are victims and that the trial Court in the judgement had directed, disbursement of amount recovered as fine from the accused in a particular manner. He would further submit that the petitioners have approached the Collector seeking details with regard to the payment of fine by the accused under the Right to Information Act and that the Public Information Officer / PA (G) to the Collector, by letter dated 07.03.2018 in letter No.G2/7719/15 had informed that an amount

of Rs.15 Lakhs has been recovered from the defaulter /accused-Mohammed Maqdoom and it had been deposited in the Principal Sessions Judge for CBI Cases in Account No.6557907839 (Indian Bank) as stated above and based on that the petitioner had insisted the trial Court to disburse the amount, however the trial Court stating that after due enquiry and investigation of records and ascertaining that the accused had not so far paid the amount, dismissed the petition.

9. Since it was represented by the learned counsel for the petitioner that the amount of Rs.15 Lakhs had been deposited by way of two Fixed Deposits in the Indian Bank, as stated above and whereas it had been observed by the learned Trial Judge that the accused had not so far paid the amount which was contrary to the statement given by the PA(G) under the RTI Act, this Court has called for a report from the Manager of Indian Bank, Madras, High Court Branch with regard to the above mentioned documents and deposits.

10. Today, the Manager of Indian Bank, Madras, High Court Branch, had furnished the details with regard to the above deposits and he had stated that an amount Rs.5,00,000/- in receipt No.0525725 dated 17.09.2016 is pending with the Bank and that the amount of Rs.10,00,000/- vide receipt No.0388126 dated 23.08.2017 was returned to Mr. N. Saravanan, Advocate for the accused, on Memo being filed by him stating that the Principal Special Judge/VIII City Civil Court had not accepted the Fixed Deposit due to legal problems.

11. This Court apprehends that some mischief could have been committed by the accused in the transactions and this Court is of the opinion that an enquiry has to be conducted with regard to the recovery of entire fine amount from the accused. As of now, only an amount of Rs.5 Lakhs is available with the bank in CC.10/13 and the balance of Rs17,65,400/- is yet to be recovered from the accused.

12. In view of the same, the matter is remitted back to the learned Trial Judge to conduct a detailed enquiry and to take steps to recover the balance fine amount from the accused. The trial Court shall also call for a report from the Public Information Officer/PA(G) to Collector, Chennai District, Chennai-1 and from the Tahsildar, Perambur Taluk that on what basis the information regarding deposits under Letter NO.G2/7719/15 dated 07.03.2018 was issued to the petitioner.

13. It is stated by the learned counsel for the petitioner that since the amount of Rs.5 Lakhs is available with the Court, suitable directions may be issued to the learned Trial Judge to apportion the amount of Rs.5 Lakhs which has been so far recovered from the accused and disburse it to the petitioner and other victim pending disposal of the enquiry.

14. In view of the same, the matter is remitted back to the Trial Court for enquiry in accordance with law and to take steps for recovery of the balance fine amount from the accused. The Trial

Court shall issue notice to all the victims concerned and disburse the amount of Rs.5 lakhs after due apportionment.

15. With the above directions and observations, this criminal revision petition stands disposed of. The Registry is directed to take a copy of the entire bundle and send the original bundle along with the letter received from the Manager, Indian Bank, Madras High Court Branch, Chennai-104 to the Trial Court.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Principal Special Judge for CBI Cases,
   VIII Additional City Civil Court, Chennai.

2. The Inspector of Police,
   Central Bureau of Investigation
   Anti Corruption Branch
   III Floor, Shashtri Bhavan
   No.26, Haddows Road,Chennai 600 006.

3. The Special Public Prosecutor,
   CBI cases, Chennai.

4. The Section Officer,
   Criminal Section (Records),
   High Court, Madras-104.

+1cc to Mr.T.Mahendran, Advocate, S.R.No.75782

Crl.RC.No.767/2019

SJ(CO)
CS/10/10/2019