

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.4569 of 2019

ORDER:

1. The present Criminal Petition is filed under Section 482 Cr.P.C. questioning the order, dated 26.07.2019, passed in CrI.M.P.No.3226 of 2019 in F.No.ECIR/HYZO/10/2019 on the file of the Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District at L.B.Nagar.

2. The brief facts of the case are that the Police, Kukatpally registered a case in Crime No.710 of 2018 against the petitioner/2nd respondent/accused under Section 420 IPC and Sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Section 25 (1B) of the Arms Act and the same is pending for investigation. Basing on the said F.I.R., the 2nd respondent-Enforcement Department investigating into the said case under the Prevention of Money-Laundering Act, 2002 (for brevity 'the PML Act') in File No.ECIR/HYZO/10/2019 opened on 20.03.2019. During the course of investigation, it is found that the petitioner cheated about 60 lakh persons and collected an amount of Rs.3,000 crores on the pretext of investment in M/s. Future Maker Life Care Private Limited and other entities controlled by him viz. M/s. FMLC Global Marketing private Limited, M/s. Fair Deal Import and Export Division, M/s. Mukul Corporation, M/s. Sahil Corporation, M/s. Muskaan Enterprises, M/s. Sahyog Tours and Travels Private

Limited, M/s. Future Charitable Trust (Mother Rasoi), M/s. Sky Touch Corporation private Limited, M/s. Sky Touch Marketing and Developers India Limited, M/s. Priyanka Enterprises etc., and failed to return the invested amount to the depositors. There are no actual business activities in respect of M/s. Future Maker Life Care Private Limited that can earn profits and give returns to its customers. Further, the petitioner and others have diverted the amounts deposited by the depositors to their personal accounts through their company bank accounts for wrongful gain and amassed huge movable and immovable assets by utilizing the said money. For carrying out these activities, bank accounts in different banks in India were opened in the name of the petitioner and connected entities/persons, related to the petitioner and the said information was gathered from the preliminary investigation by the Enforcement Directorate. As the investigation is at the initial stage; huge amounts and number of innocent victims were involved, the detailed statement of the suspect is needed to complete the investigation. The petitioner, who is presently lodged in Hissar Central Jail as an under trial prisoner, in connection with Crime No.358 of 2018 of Sadar Fatehabad Police Station, Haryana, and Crime No.859 of 2018 of Hisar City Police Station, Haryana, is one of the main perpetrators of the scam. Hence, interrogation of the petitioner/accused is necessary for eliciting the truth to obtain the following information, which would be useful for completion of investigation under the PML Act.

- a. To establish the role of the petitioner, and to know the modus operandi of the crime.
- b. To ascertain the details of all the bank accounts held in the name of the petitioner and their related firms and companies and to verify the same in order to trace out where the funds were diverted and parked.
- c. To trace/recover the proceeds of crime from the petitioner and documentary and material evidence in the case.
- d. To identify the movable and immovable properties gained wrongfully in India by the petitioner by utilizing the diverted deposits of the lakhs of victims.
- e. To get the details of other companies, firms and persons involved in the conspiracy.

3. Since the petitioner/accused is in judicial custody, the 2nd respondent-Enforcement Department filed an application under Section 267 Cr.P.C. read with Section 50 of PML Act to direct the concerned authorities to produce the petitioner in F.No.ECIR/HYZO/10/2019 so as to enable the 2nd respondent/Enforcement Department to proceed further in investigating the case. After considering the entire material available on record and the submissions advanced by the learned Counsel appearing on either side, the learned Metropolitan Sessions Judge, allowed the said petition. Challenging the same, the petitioner/accused preferred the present Criminal Petition.

4. Heard Sri T.Niranjan Reddy, learned Senior Counsel appearing for the petitioner and Sri K.Lakshman, learned Assistant Solicitor General appearing for the 2nd respondent.

5. Learned Senior Counsel appearing for the petitioner would submit that there is no relevant provision of law either in the Prevention of Money-Laundering Act, 2002 or in Cr.P.C. seeking indulgence of the Court in directing the concerned authorities to produce the petitioner so as to enable the Department to proceed with further investigation. It is further stated that the provisions of Section 267 Cr.P.C. will not be applicable to the present case, as the petitioner is not an accused but only a suspect. It is further stated that there is specific procedure under PML Act, but without adopting the said procedure, the 2nd respondent-Enforcement Department straight away filed the present petition seeking police custody.

6. Sri K.Lakshman, learned Assistant Solicitor General, would submit that since the amount involved in the case is about Rs.3000 crores and 60 lakh innocent victims are involved; and as the petitioner is one of the perpetrators of the scam, recording of the statement of the petitioner is very much necessary. It is further submitted that there is a time frame fixed at every stage of investigation under PML Act, and as the petitioner is lodged in Central Prison-2, Hissar, Haryana State in connection with other crimes, the 2nd respondent-Enforcement Department is constrained

to file an application seeking issuance of P.T. Warrant to enable his production for his examination. It is further submitted that the sole purpose of seeking P.T. Warrant was to ensure speedy investigation and to ensure that the evidence is not tampered with.

7. Admittedly, the petitioner is in Hissar Central Jail in connection with other crimes. Since the investigation in the present case is at initial stage; huge amount of Rs.3,000/- crores was involved and 60 lakh persons were victims in this case, the trial Court issued P.T. Warrant for production of the petitioner to record his statement in the present case so as to enable the 2nd respondent/ Enforcement Department to proceed further with the investigation. Hence, there is no illegality or irregularity in the impugned order and that there is no sufficient ground to interfere or to set aside the same.

8. At this stage, learned Senior Counsel appearing for the petitioner submits that he has no objection for recording the statement of the petitioner if the 2nd respondent/Enforcement Department will send back the petitioner to Central Prison-2, Hissar, Haryana State, immediately after recording his statement. The learned Assistant Solicitor General conceded and assured that immediately after recording the statement of the petitioner, he will be sent back to Central Prison-2, Hissar, Haryana State and sought two weeks time to record the statement of the petitioner.

9. In view of the aforesaid submissions made by the learned Counsel appearing on either side, the Criminal Petition is disposed of, directing the Superintendent of Central Prison-2, Hissar, Haryana State, to produce the petitioner (Radhe Shyam, S/o Nathuram), before the 2nd respondent/Directorate of Enforcement, Hyderabad, forthwith, and on such production, the 2nd respondent/ Directorate of Enforcement, Hyderabad, shall complete the recording of the statement of the petitioner within two weeks. The 2nd respondent/ Directorate of Enforcement, Hyderabad, is further directed to send back the petitioner to the Central Prison-2, Hissar, Haryana State, immediately after conclusion of the recording of the statement or within a period of two weeks from the date of his production, whichever is earlier. It is made clear that no further time will be granted.

10. Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

26.08.2019
Gkv/Gsn



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