HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.2301 of 2018

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the order, dated 24.07.2018, passed in Crl.M.P.No.357 of 2018 in Crime No.02/RCA-CIU/2017, on the file of the Principal Special Judge for SPE and ACB Cases-cum-IV Additional Chief Judge, City Civil Court, Hyderabad, wherein an application filed by the revision petitioner/third party (hereinafter referred to as "the revision petitioner") to defreeze his two bank accounts seized by the officials, was dismissed.

Brief facts of the case are that the revision petitioner filed Crl.M.P.No.357 of 2018 under Section 102, 451 and 457 of Cr.P.C., seeking to defreeze his NRI bank accounts i.e., Account Nos. 4911393923 and 4911393930 of Kotak Mahindra Bank, Banjara Hills, Hyderabad Branch. The averments in the said petition discloses that the revision petitioner came to know that the officials of Anti Corruption Bureau, Central Investigation Unit, Hyderabad, have registered a case in Crime No.02/RCA-CIU/2017, under Section 13 (1) (e) read with 13 (2) of the Prevention of Corruption Act against one Mohammad Yousuf, Sub-Registrar. It is stated that in the month of June, 2017, the authorities of Anti Corruption Bureau, have freezed the bank accounts of the revision petitioner. It is submitted that the respondent authorities, without giving any notice or intimation and without giving an opportunity of being heard, have suddenly freezed the two bank accounts of the revision petitioner. It is further submitted that the revision petitioner is in no way concerned with the said Mohd. Yousuf, Accused Officer in the said crime and there is no relationship between them. In such circumstances, freezing the bank accounts of the revision petitioner, who is an NRI, for more than two years is nothing but giving hardship to an NRI. It is further submitted that absolutely there is no material produced by the respondent/complainant before the Court till this day to show that the bank accounts of the revision petitioner have any nexus with the commission of the alleged offence. It is also submitted that the respondent/complainant has not complied the mandate contained in Section 102 of Cr.P.C. and, therefore, freezing of the bank accounts of the revision petitioner is not proper and is liable to be defreezed. Non-issuance of any notice to the revision petitioner as required under Section 102 (3) of Cr.P.C., which makes it clear that the respondent/complainant is bent upon to harass the revision petitioner for his no fault at all. There is no material available on record to create any suspicion about the commission of offence by the revision petitioner. It is further submitted that the revision petitioner is not concerned with the alleged crime and if the bank accounts of the revision petitioner are not defreezed, he would be subjected to heavy and irreparable loss, which cannot be compensated by any means. It is also submitted that the respondent/complainant did not find any material to relate/connect/link the amounts lying in the bank accounts of the revision petitioner and it is the obligatory upon the Police to show the circumstances under which the accounts were seized. Therefore, in the absence of any material relating/linking the amounts in the bank accounts of the revision petitioner with the Accused Officer, freezing of the bank accounts is illegal and it caused hardship to the revision petitioner. It is also submitted that no prejudice would be caused to the respondent/complainant if the bank accounts of the revision petitioner are defreezed.

The respondent/complainant filed counter stating that during the course of investigation in Crime No.223 of 2017, the Police, Balanagar Police Station conducted search in the residence of Mohd. Yousuf (Accused Officer), wherein they found a copy of receipt for Rs.10,05,000/- in the name of the revision petitioner issued by Telugu Cine Workers Co-operative Housing Society Limited and the said receipt was seized by the Investigating agency. It is also submitted that during the course of investigation in the present Crime, it came to light that the revision petitioner had booked a HIG Flat in his name after paying an amount of Rs.10,05,000/- and the copy of the receipt for payment of advance was seized in Crime No.223 of 2017 and later the revision petitioner departed from the proposal to purchase the HIG Flat and requested for refund of the advance payment. As per his request, the Telugu Cine Workers Co-operative Housing Society Limited, returned the money through cheque No.463867, dated 15.04.2017. It is further submitted that the bank accounts of the revision petitioner were freezed, the bank statement of A/c No.4811393930 was secured from Kotak Mahindra Bank Limited, Banjara Hills Branch and on perusal of the said account, on 05.05.2017, the revision petitioner received an amount of Rs.10,05,000/- through cheque No.463767 and on 18.05.2017 the revision petitioner credited an amount of Rs.10,05,000/- to the account of Mohd. Imamuddin, who is the father-in-law of Accused Officer, vide Cheque No.6. It is also submitted that the Accused Officer was trying to purchase the properties in the name of the revision petitioner, the receipt for payment of advance was found in the house of the accused Officer and the refund amount was finally credited to the account of Mohd. Imamuddin, who is the father-in-law of Accused Officer, it is too early and premature to come to a conclusion about the nexus between the Accused Officer and the revision petitioner and some more financial transactions may be unearthed in future.

After considering the rival submissions and the material available on record, the trial Court dismissed the said petition. Challenging the same, the present Criminal Revision Case is filed.

Heard learned Counsel appearing for the revision petitioner and the learned Special Public Prosecutor appearing for ACB Cases.

Learned Counsel for the revision petitioner would submit that the trial Court failed to consider the facts and circumstances in correct perspective and has not applied its judicial mind before passing the impugned order and the same is liable to be set aside. The trial Court failed to consider that the revision is petitioner is a third party and there was no direct link of the bank accounts of the revision petitioner with the commission of offence. He further submitted that no useful purpose would be served and no prejudice would be caused to the respondent/complainant if the bank accounts of the revision petitioner are defreezed.

Learned Special Public Prosecutor appearing for the respondent/complainant would submit that the copy of receipt with regard to payment of advance made by the revision petitioner for purchase of HIG Flat was found in the house of the Accused Officer and the same has been seized in Crime No.223 of 2017. He further submits that on 05.05.2017, the revision petitioner has received the advance amount from Telugu Cine Workers Co-operative Housing Society Limited through cheque No.463867 and on 18.05.2017 the said amount of Rs.10,05,000/- was credited by the revision petitioner in the account of the father-in-law of the Accused officer and it shows that there is a nexus between the Accused Officer and the revision petitioner, as such the trial Court rightly dismissed the application.

A perusal of the material on record would show that the statement of the bank account of the revision petitioner vide A/c No.4811393930 was already secured by the respondent/ complainant from the concerned bank. Admittedly, the revision petitioner is a third party and no crime has been registered against him. The amount deposited in the bank account of the revision petitioner is connected to the outcome of the illegal gratification of the Accused Officer and the offence, if any, could be proved from the entries made in the bank account and there is no need to freeze the bank accounts as already the statement of the bank accounts of the revision petitioner was secured by the respondent/complainant. Moreover, during search at the house of the Accused Officer, only one receipt pertaining to the aforesaid amount was found and seized by the investigating agency. With regard to the said receipt, the investigation has already been done. No other incriminating material was found by the Investigating Authorities with regard to any other transactions between the Accused Officer and the revision petitioner, even after freezing of the bank account of the revision petitioner, as such, the question of freezing the bank accounts of the revision petitioner may not be necessary for the purpose of the case.

Having regard to the facts and circumstances of the case, the order under challenge is set aside and the trial Court is directed to defreeze the two bank accounts of the petitioner namely (1) Account No.4911393923 and (2) Account No.4911393930 of Kotak Mahindra Bank, Banjara Hills, Hyderabad, subject to the revision petitioner furnishing bond equal to the amount in the credit of his accounts as on the date of freezing.

Accordingly, the Criminal Revision Case is allowed. Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE G.SRI DEVI

20.12.2019
Gkv.