IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.13168 of 2020

M.C.Srinivasan

... Petitioner

Vs.

1. The Director,
   Central Bureau of Investigation,
   Plot No.5-B, 6th Floor, CGO Complex,
   Lodhi Road, Jawaharlal Nehru Stadium Marg,
   New Delhi-110 003.

2. The Joint Director and Head of Zone,
   Central Bureau of Investigation,
   III Floor, EVK, Sampath Building,
   College Road, Chennai-600 006.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondents to register a case based on the complaint given by the petitioner dated 25.07.2019 and to investigate into the matter.

For petitioner : Mr.V.Karthikeyan for M/s.S.Joel

For Respondents : Mr.K.Srinivasan Special Public Prosecutor

O R D E R

This petition has been filed to direct the respondents to register a case based on the complaint given by the petitioner dated 25.07.2019 and to investigate into the matter.

2. The complaint of the petitioner is that the petitioner is a driver, earning a sum of Rs.15,000/- per month. During the month of February 2014, one Mr.Sridhar took the petitioner to one Mr.Anil Jain, CEO, Refex Energy Limited, Chennai for joining in the job of driver in the said company. At that time, Mr.Sridhar got the petitioner's driving license, Pan card xerox, Passport size photographs in the office of Mr.Anil Jain. Only for four days, he was provided with car driver duty, on the fifth day, he was sent out with an instruction that whenever required, he will be called.

3. Thereafter, Mr.Anil Jain never called the petitioner for duty. All of a sudden, the petitioner received a summon from the Assistant Director of Income-Tax(INV), Unit-1(3), Chennai to appear for enquiry on 28.12.2016. As per the summon, he appeared before Mr.Chandra Mouli, Assistant Director, Income Tax Office, Nungambakkam High Road, Chennai and explained that he does not have any account with the Axis Bank, Anna Salai Branch and is unaware about the transactions.

4. Subsequently, he received another notice dated 09.03.2017 in letter No.ITBA/AIM/S/10/016-17/1002902087(1), from Government of India, Ministry of Finance, Income Tax Department, Chennai. In the above said letter, Ms.Gomathi, Income Tax Officer, Chennai, sought for explanation in five days stating that the petitioner deposited cash amount in the bank to the tune of Rs.8,46,40,000/- (Rupees Eight Crore Forty Six Lakhs and Forty Thousand Only) during the period of Demonetization i.e., from 09.11.2016 to 30.12.2016. Thereafter, he received further four notices issued by the same officer dated 26.03.2017, 03.08.2017, 29.11.2017 and 09.03.2018. The petitioner obtained statement of accounts from the Axis Bank. On verification of the statement, it is seen that total transaction of mamooth amount of Rs.205,41,68,292/- (Rupees Two Hundred and Five Crores Fourty One Lakhs Sixty Eight Thousand Two Hundred and Ninety Two Only) had been transacted in the referred account. Further, most of the transactions were made between the companies of Mr.Anil Jain and his Benami's Company accounts in the said account. Mr.Anil Jain is a big businessman and a habitual fraudulent person, to convert his black money into white. He used to open bogus accounts in the name of innocent persons. After opening bogus accounts, he used to operate the account and deposit crores and crores of rupees in the said account. No person could open a bogus account in others name and further, nobody could operate the bogus account without the help of bank officials. The Axis Bank, Anna Salai Branch, Chennai officials are, hand in glove with Mr.Anil Jain, helping him to convert his black money to white, for their illegal profits. Further, a complaint was registered against Mr.Anil Jain and others before the learned Judicial Magistrate (1st Class) Pulwama, Jammu and Kashmir, dated 25.06.2007 by M/s.Kolane Refrigerants, the learned Magistrate had taken cognizance of the offence punishable under Section 420 of Ranbir Penal Code for cheating of Rs.22 Lakhs by Mr.Anil Jain. To escape from the above criminal case, Mr.Anil Jain filed a quash petition before this Court. The said quash petition was dismissed by this Court and the learned Judicial Magistrate was directed to proceed with the case.

5. Further, in the case of I.T.A.No.2494/M/2017, Income Tax Appellate Tribunal "H" Bench, Mumbai. To reduce the tax, he had shown a bogus purchase for Rs.3,23,12,978 (Rupees Three

Crore Twenty Three Lakhs Twelve Thousand Nine Hundred and Seventy Eight Only) in his income tax assessment for the year 2008-2009. But the sales tax department declared that the above said transactions are Hawala transactions and based on the same, the case was re-opened by the Income Tax Department and the appeal preferred by Mr.Anil Jain was dismissed confirming his illegal transactions. The Reserve Bank of India has prescribed Know Your Customer(KYC) policy for banks to follow the key elements (i) Customer Acceptance Policy, (ii) Customer Identification Procedures, (iii) Monitoring of Transactions, and (iv) Risk Management. The Axis Bank's Code of Conduct and Ethics for Senior Management, clearly states about how the regulations relating to the KYC must be complied. But, in this case, the Axis Bank Officials of Annal Salai Branch, Chennai had not followed the above said guidelines in compliance with the KYC norms which leads to the present fraud committed by Mr.Anil Jain. Thereafter, the petitioner lodged a complaint before the Central Crime Branch, Chennai on 02.02.2018, regarding the illegal transactions on bogus account. On 06.02.2018, Central Crime Branch, Sub-Inspector enquired the petitioner. Thereafter, there is no progress in the case, which is still under investigation.

6. The petitioner sent a representation on 24.07.2019 to the authorities concerned to take necessary action against the real culprits in the alleged transaction that took place in the bogus account opened in the Axis Bank, Anna Salai Branch in his name. In the meanwhile, the Axis Bank Officials called him for enquiry on 08.10.2019. During the enquiry, the petitioner denied his signature in the application form for account opening and even then, they had not taken any steps to send the signature for verification to the forensic department. Therefore, the petitioner filed the above case.

7. The learned counsel for the petitioner submits that he aware of the fact that a complaint for the same cause of action was given to the Commissioner of Police, Central Crime Branch, Chennai on 02.02.2018, but so for no worthwhile investigation is done. The facts of the complaint is not known.

8. The learned Additional Public Prosecutor submits that the complaint was received on 02.02.2018. On the same day, the complaint was enquired by CCB, Team-27. Thereafter, notice to the petitioner was sent on two occasions to the address No.1, Pammal Nallathambi Street, Thiru Nagar, Nagalkeni, Chromepet, Chennai-44. But notice could not be served and the petitioner was informed through his mobile. Despite the same, the petitioner did not respond to the notice. Thereafter, the Inspector of Police submitted a report to the higher officials on 28.08.2018. On getting approval from the Higher Officers, the enquiry was closed on 30.08.2018.

9. The learned Additional Public Prosecutor further submits that the enquiry was closed for non cooperation. If the petitioner cooperates for enquiry and on enquiry if case to be registered and investigated, the same would be done.

10. The learned counsel for the petitioner opposed the above contention, stating that the petitioner is very much available in the same address and he is receiving other communications regularly. But for the communication sent by the CCB, Team-27. In any case, he is willing to co-operate with the investigation. Further, on instructions, he submitted that his client undertakes to appear before the respondent namely, the Inspector of Police, CCB, Team-27, Chennai on 14.09.2020 at 11.00 a.m.

11. Recording the submissions, this Court hope free and fair enquiry and investigation would be conducted. The Inspector of Police, CCB during enquiry or investigation finds Pan India ramification, it shall forward or transfer the enquiry or investigation to the appropriate investigating agency if such necessity arise.

12. In view of the above, this Criminal Original Petition is disposed of.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To
1. The Director,
Central Bureau of Investigation,
Plot No.5-B, 6th Floor, CGO Complex,
Lodhi Road, Jawaharlal Nehru Stadium Marg,
New Delhi-110 003.

2. The Joint Director and Head of Zone,
Central Bureau of Investigation,
III Floor, EVK, Sampath Building,
College Road, Chennai-600 006.

Copy to
The Inspector of Police
CCB Team 27
Chennai.

CRL.O.P.No.13168 of 2020

MG(CO)
SP(16/09/2020)