IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Contempt Petition No.283 of 2020

N.K.Rani,
W/o. Late S.S.Namasivayam ... Petitioner

/Vs/

1.Shri Vijayendra S Bidari IPS,
The Joint Director,
Central Bureau of Investigation,
Bank Securities and Fraud Cell,
36, II nd Floor, Bellary road,
Ganga Nagar,
Bangalore – 560 032.

2.Gowri Sankar,
The Bank Manager,
Canara Bank,
96, Perundurai Road,
Erode 638011. ...Respondents

PRAYER: Contempt Petition filed, under section 11 of the Contempt of Courts Act, 1971, to punish the respondents herein for contempt for willfully disobeying the order of this Court, dated 14.03.2019 made in W.P.No.6906 of 2019.

For Petitioner : Mr.J.Jawahar
For Respondents : Mr.K.Srinivasan,
Special Public Prosecutor (CBI Cases)

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O R D E R

The Contempt Petition has been filed by the petitioner, seeking to punish the respondents herein for contempt for willfully disobeying the order of this Court, made in W.P.No.6906 of 2019, dated 14.03.2019.

2.The case of the petitioner is that on 31.12.2010, the petitioner had deposited a sum of Rs.10,00,000/- as Fixed Deposit in her account in A/c No.3028332000027/1, in the Canara Bank, Perundurai Road, Erode Branch. The Fixed Deposit amount has matured on 01.10.2013. While so, based on a case registered by the Central Bureau of Investigation, Bank Securities and Fraud Cell, 36, II Floor, Bellary Road, Ganga Nagar, Bangalore, the account of the petitioner was freezed and the petitioner was refused permission to operate the account and withdraw the matured fixed deposit amount. Against the order of freezing, the petitioner had filed a writ petition in W.P.No.6906 of 2014, before this Court, seeking for mandamus, to direct the CBI to unfreeze her Fixed Deposit Account and to direct the Bank to disburse the matured Fixed Deposit amount of Rs.10,00,000/- with accrued interest relating to deposit No.08/RDNI-585970, dated and this Court, by an order dated 14.03.2019, had allowed the writ petition. The concluding operative paragraphs of the order in the above said

W.P.No.6906 of 2014, is extracted hereunder:

> *" From the above, it is clear that the freezing of the account had been done without following the procedure contemplated under Section 102 Cr.P.C., and thereby freezing of the account of the petitioner by the 3rd respondent on the instruction of the 1st respondent cannot be legally sustained.*
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> *In view of the same, the writ petition stands allowed and the communication of the 1st respondent in No.RC-2(E)/ 2011/ CBI/ BS&FC/ BLR dated 13.06.2011 for freezing the bank account of the petitioner is hereby quashed. The petitioner is at liberty to operate the account bearing No.3028332000027 in Canara Bank, Perundurai Branch, Erode. However, it is made clear that since the present order of quashing is done of technical ground, the Investigating Officer is at liberty to initiate proceedings in accordance with law after following the procedures."*

3.Pursuant to the order passed by this Court in W.P.No.6906 of 2014, dated 14.03.2019, the petitioner had sent a requisition to the Branch Manager, Canara Bank, on 22.06.2019, seeking to de-freeze her account and release the amount. Since, the bank did not release the amount and de-freeze the account, she had sent a legal notice to the Branch Manager, Canara

Bank, on 24.08.2019 and the Branch Manager of the Canara Bank, had sent a reply notice, stating that this Court, had quashed the order on technical grounds and further, granted liberty to the CBI, to initiate the proceedings in accordance with law, after following procedures. Thereafter, the petitioner had sent a legal notice to the 1st respondent viz., Shri Vijayendra S Bidari IPS, Joint Director of Central Bureau of Investigation, Bank Securities and Fraud Cell, 36, II Floor, Bellary Road, Ganga Nagar, Bangalore -560 032, on 05.12.2019, to comply with the order.

4.Thereafter, since the order of this Court, in W.P.No.6906 of 2014, dated 14.03.2019, has not been complied with by the 1st respondent, the present Contempt Petition has been filed by the petitioner, seeking to punish the contemnor.

5.Mr.J.Jawahar, learned counsel appearing for the petitioner would submit that this Court, by an order dated 14.03.2019, had quashed the communication of the 1st respondent in No.RC-2(E)/ 2011/ CBI/ BS&FR/ BLR dated 13.06.2011, for freezing the Bank Account of the petitioner and also granted liberty to operate the account bearing A/c.No. 3028332000027 in Canara Bank, Perundurai Branch, Erode. Though, liberty had been given to the CBI, to initiate the proceedings in accordance with law, after following the procedures, CBI, had not initiated any proceedings till date. However, despite, the receipt of the Contempt Notice, the respondents have not complied with the order passed by this Court in W.P.No.6906 of 2014, dated 14.03.2019 and thereby, the respondents have committed the Contempt of this Court and would pray for appropriate action.

6.The 1st respondent has filed two counter affidavits. One counter has been filed by Shri Vijayendra S Bidari IPS and yet another has been filed by R.Jayalakshmi, IPS, SP and Head of Branch, CBI, BSFB, Bangalore.

7.It is opposite to refer to the relevant paragraphs of the counter affidavit filed by Shri Vijayendra S Bidari IPS. The Paragraph Nos.1 to 5 are extracted hereunder:

"1.That the certified copy of order of this Hon'ble High Court of Chennai in W.P.No.6906 of 2014 was received in Banking Securities & Frauds Branch, CBI, Bangalore on 25.06.2019. I was serving as head of Branch, BSFB, Bangalore and have forwarded the

order copy on the same day to CA (Crime) with specific written instructions for remarks of HIO/PP (i.e., Holding Investigation Officer and Law Officer) and also instructed in writing to put up draft letter to Head of Zone of CB to be informed. On 26.06.2019 (i.e., next day), I have handed over Charge of Head of Branch to Smt. Roopa, M, IPS upon my transfer to New Delhi. The file was not put up to me by the Holding Investigation Officer and I have not dealt with this file thereafter.

2.That it is sincerely submitted that the Respondent holds this Hon'ble High Court in the highest reverence and has not wilfully or intentionally committed any contempt of this Hon'ble High Court.

3.That the Respondent has acted upon the order copy on the same day and issued written instructions to inform the Head of Zone of CBI of this order.

4.That due to administrative processing, the file was not put up to me till the next date and I have handed over charge of office of Head of Branch, BS & FC, Bangalore on next date itself (i.e.26.06.2019).

5.That the respondent submits unconditional apology for any unintentional delay caused during administrative processing and will obey any order that *this Hon'ble High Court so orders. It is humbly prayed that the respondent has not committed any intentional or wilful contempt and this Contempt Petition against this respondent in personal capacity may please be dismissed and for orders as deemed appropriate."*

8.In respect of the counter affidavit filed by S.Jeyalakshmi, IPS, the relevant paragraphs are 7 to 12 and they are extracted hereunder:

"7.Further, this Hon'ble High Court vide order dated 14.03.2019 in W.P.No.6906/2014, had made clear that since the present order of quashing is done on technical ground, the Investigating Officer is at liberty to initiate proceedings in accordance with law after following the procedures.

8.It is further submitted that, Shri Vijayendra Bidari, IPC, the then SP & Head of Branch, CBI, BSFB, Bangalore, received the order dated 14.03.2019 of this Hon'ble High Court in W.P.No.6906 of 2014 on 25.06.2019. Thereafter, Shri Vijayendra Bidari had handed over the charge of Head of Branch, CBI, BSFB, Bangalore to Ms.Roopa Mariswamy, IPS on 26.06.2019 upon his transfer to New Delhi.

9.It is further submitted that the order of this Hon'ble Court in W.P.No.6906 of 2014 dated 14.03.2019 was received by this Office on 25.06.2019. Subsequently AGM, Canara Bank, Human Resources Management Section, Circle Office, Chennai vide Letter No.CNC HRMS DAC 766 2019 dated 24.06.2019 (Received on 27.06.2019) had requested CBI, BSFB, Bangalore to convey the opinion on de-freezing of the account of the petitioner, in view of the aforesaid order of this Hon'ble High Court. Further, the Investigating Officer vide Letter No.RC 2/ E/ 2011/ CBI/ BS&FC/ BLR/ 5936 dated 11.07.2019 had requested the Canara Bank, Perundurai Branch, Erode to keep the continuation of freezing the Term Deposit account bearing No.3028332000027 held in the name of Smt.N.K.Rani, till further advice from CBI, BSFB, Bangalore and filed a Memo on 15.07.2019 before the jurisdictional Court of Spl. Judge for CBI Cases, Coimbatore as per the procedure laid down U/s 102 (3) Cr.P.C., and complied with the orders of this Hon'ble High Court."

10.After the administrative processing of file, the IO had sent the communication to Canara Bank vide letter dated 11.07.2019 for continuation of freezing of account of the petitioner and further filed the memo u/s. 102 (3)Cr.P.C., before the jurisdictional Court at Coimbatore on 15.07.2019, therein mentioning about *the action taken by him on the order dated 14.03.2019 of the Hon'ble High Court. The said memo was accepted by the Trial Court.*

11.It is further submitted that Smt.N.K.Rani (Petitioner) has mentioned Shri Vijayendra Bidari, Joint Director, CBI, BS&FC, Bangalore as Respondent in this Contempt Petition. However, there is no such post in CBI, BSFB (e-BS&FC), Bangalore. The branch is headed by SP/DIG as Head of Branch. There is a post of Joint Director, CBI at New Delhi, who is heading Banking Securities & Fraud Zone at New Delhi and under his control there are four branches namely, CBI, BSFB, New Delhi; CBI, BSFB, Mumbai; CBI, BSFB, Kolkatta and CBI, BSFB, Bangalore. That, Shri Vijayendra Bidari, the then Head of Branch, CBI, BSFB, Bangalore is transferred from the branch. Also Ms.Roopa Mariswamy, who took over the charge from Shri. Vijeyandra S. Bidari is also repatriated to her parent cadre on 15.09.2020 (Nagaland State Police). Therefore, this affidavit is filed by Smt. R. Jayalakshmi, presently Head of Branch, CBI, BSFB, Bangalore.

12.That the respondent submits unconditional apology for any unintentional delay caused during administrative processing and will obey any order that this Hon'ble High Court so orders and It is most *respectfully submitted that there is no willful or intentional disobedience of the order of this Hon'ble High Court and the Respondent holds this Hon'ble High Court in the highest reverence."*

9.Mr.K.Srinivasan, learned Special Public Prosecutor, CBI Cases, appearing for the respondents would submit that the petitioner has unnecessarily impleaded the 1st respondent and that there is no such designation of the Joint Director at CBI, BSFB (e-BS&FC), Bangalore and further, the 1st respondent is not the person responsible to comply with the order of this Court. Since, because the petitioner had sent a written notice to the 1st respondent, on 05.12.2019, it does not mean and it could not be taken that the 1st respondent is the person responsible to comply with the order. However the 1st respondent having received the notice, as a dutiful and responsible officer had forwarded the same to CA (crime) on the same day, with specific written instructions for remarks of HIO/PP (i.e., Holding Investigation Officer and Law Officer) and also instructed in writing to put up draft letter to the CBI, to be informed. And on the next day (i.e., 26.06.2019), he was transferred to Delhi, and thereafter, he had handed over to the charge as Head of the Branch to Smt.Roopa M, IPS and that thereafter, he has not dealt with the file.

10.He would further submit that the 1st respondent holds this High Court in highest reverence and that he has not willfully or intentionally committed any contempt of this Court and he would reiterate that the 1st respondent is not the person responsible to comply with the order of this Court in W.P.No.6906 of 2014, dated 14.03.2019. He would further submit that after the receipt of the legal notice dated 24.08.2019, finding that this Court had quashed the attachment only on the technical grounds and finding that liberty was granted to the CBI, to initiate the proceedings in accordance with law, the Investigating Officer after following procedures, had requested the Canara Bank Perundurai Branch, to keep continuation of freezing the Term Deposit and he had filed a memo before the Special Court, CBI, Coimbatore on 15.07.2019, in order to comply with the proceedings as contemplated under Section 102 (3) Cr.P.C. However, he would submit that no further order was passed by the Court and no further action was taken. Since, he had intimated under Section 102 Cr.P.C., to the Court, the Investigating Officer was under the impression that he had invoked the liberty granted by this Court and further, since the trial has also commenced in this case he thought it fit that it was not necessary to defreeze the account. However, he would submit that the respondent has not willfully or intentionally disobeyed the order of this Court. He would submit that the petitioners are prepared to abide by any order that may be passed by this Court and would seek for apology from the Court on behalf of the respondents.

11.At this juncture, the learned counsel for the petitioner would submit that excepting intimating the Court about the freezing of the account, the respondents thereafter, have not done anything and thereby, the petitioner is entitled for return of the Fixed Deposit Amount. He would further submit that as per Section 102 (3) Cr.P.C., the investigation has been completed and the trial is going on and that the petitioner is prepared to execute a bond in accordance with law under Section 102 (3) Cr.P.C., before the Trial Court, for de-freezing the account and return of the amount covered under the Fixed Deposit to her.

12.The learned Special Public prosecutor would submit that the Fixed Deposit is of the year 2010, which is for an amount of Rs.10,00,000/- and the maturity amount including the interest would approximately come to about Rs.15,00,000/- and thereby, would submit that the petitioner may be directed to execute necessary security either by way of depositing the title deeds of immovable properties or executing a bond to the tune of Rs.15,00,000/-.

13.This Court having perused the counter affidavits and hearing the submissions made by the learned Special Public Prosecutor, CBI Cases, comes to the conclusion, that no contempt has been committed by the respondents. However, a direction is issued, de-freezing the petitioner's Fixed Deposit Account maintained at Canara Bank at No.96, Perunthurai Road, Erode-11 and permitting the petitioner to withdraw the matured Fixed Deposit amount with accrued interest on condition, the petitioner executes a bond for a sum of Rs.15,00,000/- before the learned II Additional District Judge, (CBI Cases), Coimbatore (FAC) and after execution of bond, the learned Judge, shall intimate the Branch Manager of Canara Bank, Perunthurai Road, Erode-11, to release the amount.

14.With these observations, the Contempt Petition stands closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

ssi

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

IM/04/03/2021

To

1.The II Additional District Judge(CBI Cases),
Coimbatore(FAC)

2.The Joint Director,
Central Bureau of Investigation,
Bank Securities and Fraud Cell,
36, II nd Floor, Bellary road,
Ganga Nagar,
Bangalore – 560 032.

3.The Bank Manager,
Canara Bank,
96, Perundurai Road,
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