

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3725 OF 2022

Ashok Kumar S/o Badri Prasad & Ors. ... Petitioners

V/s.

The State of Maharashtra ... Respondent

Mr. Prasanna K. Shahane for the petitioners.

Ms. G.P. Mulekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 14, 2022

P.C.:

- 1.** The petitioner is challenging order dated 10th August, 2022 passed by the learned Additional Sessions Judge, Pune in Criminal Revision Application No.203 of 2020 thereby rejecting the application of the petitioners to de-freeze their pension account.
- 2.** At the outset, the learned advocate for the petitioners, on instructions, seeks permission to delete petitioner No.2.
- 3.** Leave, as prayed for, is granted. Amendment to be carried out forthwith.
- 4.** The first information report bearing C.R. No.30 of 2020 was registered against unknown persons for offences under sections 419 and 420 read with 34 of the Indian Penal Code, 1860 and

sections 66(C) and 66(D) of the Income Tax Act, 1960.

5. In the course of investigation, the investigating agency attached three (3) accounts of the petitioners and the son of petitioner No.1.

6. The applicants, therefore, filed an application under section 456 of the Code of Criminal Procedure, 1973 to de-freeze the said bank accounts. The said application was rejected by the learned Magistrate holding that both the accounts where the amount was transferred stand in the name of original applicant No.2, i.e., son of applicant No.1. The applicant No.2 thereafter transferred an amount of Rs.80,000/- (Rupees Eighty Thousand Only) in the account of petitioner No.2 and amount of Rs.20,000/- (Rupees Twenty Thousand Only) in the name of petitioner No.1.

7. The petitioners challenged the said order by filing Criminal Revision Application No.203 of 2020. The learned Sessions Judge by impugned order has rejected the said criminal revision application filed by the petitioners.

8. The learned advocate for the petitioner submitted that the principal reason made with the learned Magistrate to reject the application for transfer of amount from the accounts of the original applicant No.2 (Chaman Kumar). As per the reply filed by the investigating officer, it is stated that applicant No.2 (Chaman Kumar) transferred an amount of Rs.80,000/- in the account of petitioner No.2 and Rs.20,000/- in the account of petitioner No.1.

9. The learned advocate for the petitioner, therefore, submitted that the petitioners are ready to deposit the said amount before the

learned Magistrate to secure the interest of the complainant. It is submitted that the pension account of petitioner No.1 is freezed, with the result the petitioner No.1 is not getting his regular pension.

10. Learned APP for the State submitted that the order passed by the Courts below is based on correct appreciation of facts and law. He submitted that the property in the form of amount in the bank account are proceeds of crime and, therefore, the investigating agency was justified in opposing the request to de-freeze the account.

11. Having heard learned counsel for the parties, in my opinion, in the light of concession made on behalf of the petitioners that the petitioners are ready to deposit an amount involved in the crime before the learned Magistrate, the application in relation to petitioner Nos.1 and 2 can be allowed.

12. Hence, following order:

a. The impugned orders dated 8th September, 2020 passed by the learned 12th Judicial Magistrate, First Class, Pune and confirmed by the learned Additional Sessions Judge, Pune is quashed and set aside, subject to petitioner Nos.1 and 2 depositing an amount of Rs.20,000/- (Rupees Twenty Thousand Only) and Rs.80,000/- (Rupees Eighty Thousand Only), respectively before the learned 12th learned Judicial Magistrate, First Class, Pune in proceedings arising out of C.R. No.30 of 2020 within two (2) weeks from today.

b. On deposit of the amount as directed above, the learned

Magistrate shall pass an order of de-freezing the accounts of petitioner Nos.1 and 2.

13. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)