IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21/6/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.13945 of 2022

K.M.Joseph ...Petitioner/Defacto Complainant

Vs

1. State
rep. By The Inspector of Police
Central Crime Branch Team – I
Cyber Crime Wing
Vepery
Chennai 600 007. ...I Respondent/Complainant

2. The Canara Bank
rep. By its Manager
Pali Branch
Rajasthan 306 401. ...Respondent/Recipient Banker

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the order dated 29/3/2022 in Crl.M.P.No.5514 of 2022 in Crime No.198 of 2019 on the file of the Special Court for CCB & CBCID, Metropolitan Magistrate, Egmore, Chennai and may order to return of freezed amount of Rs.5,00,000/- freezed by Canara Bank in K.G.N.Enterprises Agency, Account No.232921400006, IFSC Code: CNRB0002329, Pali Branch, Rajasthan, being the amount concerned in the above Crime number and return to the petitioner/defacto complainant K.M.Joseph, the Proprietor of M/s. Royal Marketing, Bank Name: HDFC, Current Ac/c.No.50200008390917, Branch Name: Kilpauk IFSC Code HDFC0000124.

For Petitioner ... Mr.P.Paulselvam

For Respondents ... Mr.A.Gokulakrishnan
Additional Public Prosecutor
for R.1

ORDER

This Criminal Original Petition has been filed to set aside the order, dated 29/3/2022, made in Crl.M.P.No.5514 of 2022, in Crime No.198 of 2019, on the file of the Special Court for CCB & CBCID, Metropolitan Magistrate, Egmore, Chennai and direction may be given to Canara Bank to return the freezed amount of Rs.5,00,000/- to the account of petitioner/defacto complainant.

2. Heard Mr.P.Paulselvam, learned counsel for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the first respondent.

3. The case of the petitioner is that he had lodged a complaint with regard to on line cheating, criminal breach of trust, forgery committed by unknown persons, under the guise of purchase of Folic oil, for a sum of Rs.40,50,000/- and the same was registered in Crime No.198 of 2019, pending on the file of the respondent Police.

4. Today, when the matter is taken up for hearing, Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the respondent Police submitted that they have no objection in releasing the amount that is lying in the freezed account.

5. From the materials available on record, it could be deduced that this is a clear cut case of commodity scam, wherein the accused persons offered to export Folic Oil from India. They impersonated and cheated the money from the petitioner. In view of the requisition made by the respondent Police, Canara Bank freezed the account. Now, the petitioner has come forward with this Criminal Original Petition to direct the Police to issue necessary instructions to the Bank concerned to release the amount to the petitioner.

6. A perusal of the order impugned herein reveals that a sum of Rs.5,00,000/- has been freezed in the account held by KGN Enterprises Agency, at Canara Bank, PALI branch, Rajasthan. The respondent Police have submitted that the amount is still lying in the freezed account. It is further evident from the order impugned that even before the Court below, the respondent Police did not have any objection for return of the money to the petitioner. However, citing pendency of investigation, the Court below has not acceded to the prayer of the petitioner.

7. It is to be pointed out that merely because final report is not filed, the Court below cannot direct to hold the amount in the freezed account, when the respondent Police have on their own volition, submitted to release the amount to the petitioner. The duty of the Court is to safeguard the interest

of the parties and in such a backdrop, the Court below could have ordered the release of the amount on certain condition.

8. It now transpires that even before the Court below, the respondent Police did not have any objection for the release of the amount, even without imposition of any condition. Such being the case, holding the amount in the account would only be against the interest of the petitioner. In such a view of the matter, this Court is of the view that the prayer as sought for by the petitioner for release of the amount of Rs.5,00,000/- from Canara Bank could be ordered.

9. Accordingly, this Criminal Original Petition is allowed and the order, dated 29/3/2022 passed in Crl.M.P.No.5514 of 2022, is set aside. Respondent Police is directed to issue necessary instructions to the Canara Bank to release the amount to the petitioner/defacto complainant K.M.Joseph, Proprietor of M/s. Royal Marketing, to their HDFC account No.50200008390917, maintained with Kilpauk Branch IFSC Code HDFC0000124.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mvs.

To

1.The Special Court for CCB & CBCID,
Metropolitan Magistrate, Egmore, Chennai.

2.The Inspector of Police
Central Crime Branch Team - I
Cyber Crime Wing, Vepery
Chennai 600 007.

3.The Manager,
Canara Bank,
Pali Branch
Rajasthan 306 401.

4.The Public Prosecutor,
High Court, Madras.

Crl. O.P. No. 13945 of 2022

MG (CO)
PR (04/07/2022)