IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-18831-2019
Date of decision: 20.05.2022

Roshan Lal

...Petitioner(s)

Versus

State of Haryana

…Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Balkar Singh, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

****

ANOOP CHITKARA, J.

Prayer in this petition filed under Section 482 CrPC is for setting aside the order dated 7.3.2019 *qua* the condition imposed on the petitioner that he has to deposit Rs.6,40,000/- with the Court.

The prayer being opposed by the State, learned counsel for the petitioner has submitted that he would be satisfied if the Court directs that instead of furnishing *superdignama,* he be permitted to deposit only Rs.6,45,000/- with the concerned Court.

Briefly stated, facts of the case are that One Sonia informed the police that a total sum of Rs.25,000/- was withdrawn from her account. She also informed that this has happened with so many people and all those people have filed complaints to the police. One Shakti alleged withdrawal of Rs.25,000/-, Pradeep alleged withdrawal of Rs.1450/- and Ashok alleged withdrawal of Rs.30,000/- from their respective accounts. Based on this, the police found involvement of Surender, Manish and Ravi and on investigation, it was revealed that they had ATM swipe machines and were cloning the cards. After that they would make false ATM cards and withdraw money. The police also recovered swipe machines used to clone the ATM cards. The investigation further revealed that in all, huge sum of money which runs into more than Rs.30-35 lacs, was withdrawn from the ATMs.

The investigation further revealed that a sum of Rs.6,45,500/- was found to be deposited in the account of accused Surender, out of which, a sum of Rs.6,45,000/- was transferred in favour of DEFY Motors Pvt. Ltd. Gurgaon on 3.12.2018 through RTGS. The investigation further revealed that the petitioner Roshan Lal had purchased a Verna car and the aforesaid amount was transferred as payment towards the payment of said car. The total sale consideration was Rs.12,00,000/- and the remaining money was paid in cash.

After that the police took possession of the said car, as the case property, though the petitioner got it released on *superdari*. Learned trial Court ordered the petitioner to furnish *superdaginama* in a sum of Rs.10 lacs. with one surety in the like amount, apart from depositing a sum of Rs.6,40,000/- with the Court.

Feeling aggrieved by the aforesaid order dated 7.3.2019 passed by SDJM, Ganaur, the petitioner has come up before this Court.

During the course of arguments, learned counsel for the petitioner has argued that the petitioner has already furnished *surety bonds* to a sum of Rs.10 lacs.

While perusing the entire record, I am of the considered opinion that it has come into evidence that the accused Surender transferred a sum of Rs.6,45,000/- to the car dealer, as sale consideration towards purchase of car by the petitioner. The petitioner is *mama* of the accused Surender and as such, the petitioner should have known the sources of income of this real nephew and should have enquired about the sources of huge funds in his bank account. Thus in the entirety of facts and circumstances of the case, it would be expedient and in the interest of justice, that the order dated 7.3.2019 is modified to the following extent:-

The petitioner shall deposit a sum of Rs.6,45,000/- with the concerned Judicial Magistrate who shall make an auto renewal fixed deposit in his name. In case the trial Court reveals that this sum of Rs.6,45,000/- was found to be part of the stolen money from the ATM machines or any other manner, this amount shall be forfeited and refunded to the complainant along with proportionate interest. However, in case the aforesaid money is not found to be connected with ATM scam, then this entire money along with Fixed Deposits as well as interest shall be transferred back to the petitioner. Further, once the petitioner would be depositing a sum of Rs.6,45,000/-, then there would be no need to take *superdaginama* of Rs.10,00,000/-. The moment the petitioner depsits Rs.6,45,000/-, the surety of Rs.10,00,000/- shall automatically stand discharged.

Needless to say that the case property was Rs.6,45,000/- and therefore, there was no need to furnish surety of Rs.10,00,000/-.

The petition is partly allowed to the extent mentioned above. Such depsoit be positively made within 30 days from today, failing which, it shall be open for the Court to proceed for recovery of the said amount from the surety bonds and once recovery is made, the Court shall make a fixed deposit in its name and proceed in the aforesaid terms.

(ANOOP CHITKARA)
JUDGE

May 20, 2022
AK

Whether speaking/reasoned: Yes
Whether reportable: No.