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Crl.R.C.No.384 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.R.C.No.384 of 2023

R.Latha Bai

... Petitioner

Vs.

State rep. by
The Inspector of Police (SCS),
District Crime Branch,
Kancheepuram District.
(Crime No.04/2021)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records, examine the same for the purpose of satisfying itself as to the correctness, legality and set aside the impugned order dated 20.10.2022, in Crl.M.P.No.1671 of 2022 in Crime No.04 of 2021, on the file of the learned Judicial Magistrate-I, Kancheepuram. 2. To defreeze the savings account of the petitioner in Primary Agricultural Co-operative Credit Bank, bearing Account No.69289010001599, Mathur Branch.



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For Petitioner : Mr.V.Ramanareddy

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the learned Judicial Magistrate-I, Kancheepuram in Crl.M.P.No.1671 of 2022 in Crime No.04 of 2021 dated 20.10.2022.

2. The case of the prosecution is that on the complaint of one Tr.Santhosh Kumar, the Proprietor of S.V.Global Logistic warehouse at Vallam Village, Sriperumbudur dated 5.12.2020 to the Oragadam Police Station, Kanchipuram District, a case was registered in Crime No.1813/2020 under Sections 120B, 407, 420, 465, 468, 471, 381 IPC against the persons Sujan Kumar, Data entry operator, Supervisors Prem and Mathew of the said S.V.Global Logistics Warehouse and Siddiq Basha and one Leo of Puduppettai. It is stated in the said complaint that it stored the Apollo Tyres at their warehouse for the last 5 years and delivered to the persons as per the directions of the said Apollo concern. While auditing the



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tyres at the warehouse till 29.09.2020 it was found that about 3529 tyres were stolen from the said godown. After taking the complaint on file, the Investigating officer has inspected the scene of occurrence and drawn the rough sketch and observation Mahazar on the same date on 05.12.2020 and examined the witnesses, complainant Tr.Santhosh Kumar, Tr.Muthusamy, Tr.Saravanan, Tr.Perumal, Tr.Sathish, Tr.Vignesh, Tr.Arumugam, Tr.Selvaraj and Tr.Dharman and recorded their statements under Sections 161(3) Cr.P.C on 15.12.2020. The accused Sujan Kumar, Prem, Leo Micheal Raj, Mathew Prathap Raj were arrested on 07.12.2020 and their confession statements were recorded. In the confession of the 1st accused Sujan Kumar, he has stated that while he was working at the complainant's concern as a data entry operator in the year December 2018, he conspired with other co-accused, prepared the forged invoice bill with lorry Number as if they brought them inside the godown and loaded the said Apollo tyres and sent it to Bangalore to one Siddiq's house and other places and thus committed a theft of about 30 loads, each load containing 105 tires. They obtained Rs.15,00,000/- from the receiver of Apollo Tyres and amongst it,



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for each load he took 4 lakhs and shared the remaining amounts to other co-accused. He purchased Marathi Ertica car bearing Reg. No. TN 2 BD 9950 for Rs 8,00,000/- deposited Rs.19,42,500/- in the petitioner's bank account at Primary Agricultural Cooperative Society Bank at Mathur Branch, purchased Royal Enfield motor cycle bearing Registration No.TN 12 AA 4620 for Rs1,85,000/-, i-Phone for Rs.1,70,000/- and spent the remaining amount lavishly. Similarly, the other co-accused also purchased various things, Jewels, Properties etc. On the confession of the 1st accused, the respondent police recovered the Maruthi Erthica car, Motor cycle and Rs.3,00,000/- cash from his house under a cover of Mahazar in the presence of the witnesses. Similarly, recorded the confession statements of the other co accused, arrested on the same day on 7.12.2020 and recovered the properties under a cover of Mahazar. All the said accused were duly remanded to the Judicial Magistrate court at Sriperumbudur and sent the case Property with Jewels of 982.83 grams of gold for safe custody to the said court. Requisition sent to the Manager of Primary Agricultural Co-operative Society Bank at Mathur Branch on the same day on 07.12.2020 to



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furnish the statement of the 1st accused mother's bank account No.692890010001599 for a period from 01.01.2017 to 7.12.2020 and also sent the requisition to freeze the said bank account and it was freezed accordingly.

3. The accused Punitha mary, mother of the accused Prem was arrested on 08.12.2020 and on the confession of the accused Prem recovered about 23 items of gold Jewels, which was said to be purchased from the stolen of Apollo tyres on the shares of the said accused Prem and 6 items of sale deed documents purchased from the said amount under a cover of Mahazar. Thereafter, on 09.12.2020, the accused Siddiq Basha, Sharafath and Srinath Babu were arrested their confession statements were recorded in the presence of the witnesses and on the confession of Siddiq Basha 96 Apollo tyres were recovered under a cover of Mahazar from his godown at Pudhupettai, Chennai. The said accused were duly remanded before the Judicial Magistrate Court at Sriperumbudur. The witnesses to the said confession statements and the Mahazar were examined and their statements



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were recorded u/s 161(3) Cr.P.C and the said properties were also remanded to the said Court. The accused Saranraj was arrested on 04.01.2021 and his confession statement was recorded. On his confession 3 items of Gold Jewels and cash of RS.3,00,000/- were recovered under a cover of Mahazar. The said properties and the accused were remanded before the Judicial Magistrate Court, Sriperumbudur. The witness vijay and Vijayakumar signatories of the said confession and Mahazar were examined u/s 161(3) Cr.P.C, and their statements recorded.

4. At this juncture, as per the proceedings of the Superintendent of Police, Kanchipuram District in C.No.27/CAMP/SP- KPM/2021 dated 18.01.2021, the above case was transferred to the District Crime Branch, Kanchipuram for further investigation in the above case. On receipt of the said order, the case records were transferred to District Crime Branch, Kanchipuram and the said complaint of Tr.Santhoshkumar was registered in Cr.No.4/2021 u/s 120-B, 465, 468, 471, 407, 420 r/w 34 IPC and commenced further investigation. Further statement of the said complainant



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was recorded by Tr.Sankar, then Inspector of Police, District Crime Branch, Kanchipuram on 30.01.2021. Requisition was sent to the Judicial Magistrate court, Sriperumbudur through proper channel to transfer the above case records from Judicial Magistrate, Sriperumbudur to Judicial Magistrate court, No.1, Kanchipuram. On 04.02.2021 alteration of FIR from the section of law in 120-B, 407, 420, 465, 468, 471, and 381 IPC to 120-B, 407, 420, 465, 468, 471, 381, 411 IPC was carried on and the same was sent to the Judicial Magistrate court 1, Kanchipuram. The witnesses Saravanan, Dharman, Arumugam, Sathish were further examined on 08.02.2021 and their statements were recorded u/s 161(3) Cr.P.C. The accused N.Vignesh was arrested on 10.02.2021, and his confession statement was recorded. The accused Srinath Babu of Bangalore was arrested and on his confession on 23.02.2021 Rs.30,00,000/- was recovered from one Senthil Ganesh of Madurai under a cover of Mahazar in the presence of witnesses Prasath and Suresh and the said accused was remanded for Judicial Custody before the Judicial Magistrate court No.1, Kanchipuram.



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5. The Petitioner S.Latha Bai, mother of the 1st accused Sujan Kumar has filed a petition before the Judicial Magistrate Court No.I, Kanchipuram in Crl.M.P.No.1671/2022 to defreeze her bank account No.692890010001599 at Primary Agricultural Coop Society at Mathur Branch and the said petition was dismissed by the said court by its order dated 20.10.2022. Against the said order, the petitioner Tmt. Latha Bai has approached this Court with the present Criminal Revision Case seeking directions to defreeze the said savings Bank account at the said Primary Agricultural Co-op Society Bank, Mathur Branch.

6. The petitioner Tmt.Latha Bai is the mother of the Prime accused Sujan Kumar, who is the mastermind of the entire fraud committed in theft of 3529 Apollo tyres kept at the custody of the SV.Global Logistics warehouse godown while the said accused was working in the said warehouse godown as data entry operator. He prepared the forged invoice bills and entered the lorry numbers in the said bill which carried the said tyres. After his arrest on 07.12.2020, he confessed the entire modus



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operandi in commission of the said offence and stated that he had deposited the misappropriated amount to the bank account of his mother Tmt.Latha Bai, Petitioner herein at the Primary Agricultural Co-op Society Bank.

7. The statement of bank account obtained by the Investigating officer on 07.03.2023 for the period from 01.01.2017 to 07.12.2020 clearly shows that the initial cash balance on 13.02.2017 is only Rs.2,443/- and periodically huge amount was credited to her bank account till the date of his arrest on 07.12.2020 and also sum of Rs.10,71,500/- was withdrawn from the said bank account by the petitioner on various occasions.

8. The Trial Court, after considering the facts and circumstances of the case and nature of offence committed by the accused, has dismissed the petition on the ground that if the petition is allowed for issuance of No Objection Certificate to obtain passport, she may go abroad and stay there forever and may not available for the completion of trial.



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9. Aggrieved by the above said order of the Trial Court, the petitioner herein has filed the present Criminal Revision Case.

10. The learned counsel for the petitioner submitted that the petitioner, Latha Bai is the mother of the first accused Sujankumar filed a petition before the Trial Court in order to defreeze the bank account No.692890010001599 at Primary Agricultural Co-operative Society, Mathur and she further contended that though her son Sujankumar is the accused in Crime No.04 of 2021 which was registered by the respondent police based on the complaint given by the Proprietor, Warehouse at Vallam Village, Sriperumbudur dated 05.12.2020, on investigation the police arrested the son of the petitioner and got confession and also arrested other accused persons, there is no evidence to show that the petitioner, mother of the accused received any amount from her son. Therefore, without following any mandatory procedure required, the respondent police freezed the account. Therefore, filed a petition to defreeze the account.



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11. The learned Government Advocate (Crl.Side) appearing for the respondent filed a counter and also stated that the petitioner's son is the main accused, upon his confession the respondent police arrested other accused persons and recovered case properties with jewels. He further contends that this petitioner is the house wife and on verification of her account frequently, huge amount of cash has been deposited and withdrawn frequently and also filed a bank transaction. Therefore, the amount received by the accused Sujankumar has been operated through the bank account of the petitioner. At this stage of investigation, it cannot be defreezed and seeking to dismiss the revision.

12. On a perusal of the statement of accounts of the petitioner filed by the respondent police, it is seen that a huge amount has been deposited in the bank by cash and also withdrawn within a short period. The petitioner being the house wife had no source of income for depositing such a huge amount within a short period of time as seen in the statement of account. The statement of withdrawing them immediately has to be investigated by



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the respondent police only by freezing the account of the petitioner at the initial stage of investigation. It is not proper to defreeze the account immediately without completing the investigation. Hence I do not find any infirmity in the order to interfere with the order passed by the Trial Court.

13. Hence this Criminal Revision Case is dismissed.

28.03.2023

Index: Yes/No
Internet: Yes/No
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To

1.The Judicial Magistrate-I, Kancheepuram

2.The Inspector of Police (SCS),
District Crime Branch,
Kancheepuram District.

3. The Public Prosecutor
Madras High Court, Chennai.



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V.SIVAGNANAM, J.,

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