



Crl.R.C.No.2074 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2074 of 2023

T.K.Venkataraman

Advocate

... Petitioner

Vs.

The Inspector of Police,
Cyber Crime Cell, Team-I,
Central Crime Branch,
Vepery, Chennai – 600 007.
(CCB-Crime No.13 of 2022)

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order dated 20.07.2023 passed in RCS No.19/2023 on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai and direct the respondent police to investigate the case in CCB Crime No.13 of 2022 and file charge sheet.

For Petitioner

: Ms.S.Deepa Sri

For Respondent

: Mr.A.Damodaran

Additional Public Prosecutor



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ORDER

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This petition has been filed seeking to set aside the order dated 20.07.2023 passed in RCS No.19/2023 on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai and direct the respondent police to investigate the case in CCB Crime No.13 of 2022 and file charge sheet.

2.The petitioner, earlier lodged a complaint against the unknown persons on 25.01.2022 stating that the petitioner is an Advocate and holding a credit card of Citi Bank bearing No.4386280023947187. This card has been misused to an extent of Rs.18,642.50. The petitioner was attempting to redeem the credit points available in his credit card. On 22.01.2021, one person identifying himself from Citi Bank called the petitioner and informed the he will help the petitioner in redeeming the point and the petitioner should follow his instructions. Thereafter the petitioner shared his OTP to the said person and the above amount had been wrongly debited from the petitioner's card. Thereafter, on coming to know about the same, the petitioner



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immediately rushed to Citi Bank, Anna Salai and the officials of the bank informed that they will immediately look into the matter and would re-credit the amount, which was wrongly debited from the petitioner's account, but thereafter no action has been taken. Later, the petitioner came to know that investigation in this case completed, referred charge sheet filed and the petitioner was served with the notice in RCS No.19 of 2023. The petitioner filed a protest petition before the Lower Court and the Lower Court by order dated 20.07.2023, dismissed the petition, against which the present revision.

3.The contention of the petitioner is that in the Lower Court order it was stated that the police requested HDFC and Yes bank to furnish the details regarding the transactions but the bank failed to reply, which shows that the investigation conducted in a perfunctory manner and wrong particulars have been submitted by the investigation agency to the Court and hence, prayed for setting aside the order of the Lower Court.



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4.The learned Additional Public Prosecutor submits that on the complaint of the petitioner, FIR came to be registered in F.I.R.No.13 of 2022 on 25.01.2022 for offences under Sections 419, 420 of IPC and 66C and 66D of Information Technology Act, 2008 against unknown persons. Thereafter, during investigation the officials of Citi bank and others were examined. Further, the OTP shared by the petitioner was used by the perpetrator of the crime and the amount had been taken out from Yes bank and HDFC bank by the unknown accused and already e-mail sent under Section 91 Cr.P.C. but yet to be responded. The amount had been siphoned by Merchant Pasfer Technologies, Bangalore and M/s.UDIO, Mumbai. One Ashok Kumar, the Legal Head of Citi bank examined in this case. He stated that the OTP number was received by the petitioner in his mobile phone and thereafter this OTP was shared by the petitioner with the perpetrator of the crime and thereafter only the amount had been debited from the petitioner's credit card.



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On his authorisation, a sum of Rs.3,517, Rs.10,100/- and thereafter Rs.5,025/-, in total, Rs.18,642/- had been debited through on-line.

4.1.Since regular information and warning is sent to the customers that the bank never asked for any OTP to be shared or any other personal identity. In this case, the petitioner also sent with such message, despite the same, the petitioner being an Advocate shared his OTP authorising the perpetrator of the crime to make debit entries. In view of the same, the case has been closed and closure report filed. The Lower Court referred YES bank and HDFC bank in this regard. The learned Additional Public Prosecutor also produced a case diary to confirm about the investigation carried out in this case and also the statement of Ashok Kumar and prayed for dismissal of this petition.

5.Considering the submissions made and on perusal of the material, it is seen that in this case investigation conducted, after taking all possible steps found that the petitioner shared his OTP, which he received in his



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mobile phone to the perpetrator of the crime and thereafter authorised the person to use OTP, now the petitioner making turn around and blaming the bank would not be proper. In this case, investigation has been properly conducted and thereafter only closure report was filed. Though in the closure report, investigation conducted in the Citi bank and statement recorded had been mentioned and the Lower Court failed to refer the same in the order, that alone will not make the order to be interfered. In view of the same, this Court finds no reason to interfere with the Lower Court order, hence, the Criminal Revision Case is dismissed giving liberty to the petitioner to file a private complaint, if he so advised.

07.12.2023

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

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To

- 1.The Inspector of Police,
Cyber Crime Cell, Team-I,
Central Crime Branch,
Vepery, Chennai – 600 007.
- 2.The Additional Chief Metropolitan Magistrate,
Egmore, Chennai
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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