Sonam

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPL. NO. 25 OF 2024

Mr. Andrejo George,
Son of George Varghese,
Age 24 years, unmarried,
Self-employed,
Through POA, his mother,
Mrs. Nini George,
Wife of George Varghese,
Resident of BG-1,
West Coast Residency,
Porvorim, Bardez, Goa. … APPLICANT

Versus

1) Police Inspector,
Central Bureau of Investigation,
Anti Corruption Branch,
Bambolim, Tiswadi, Goa.

2) State,
Through Public Prosecutor,
Hon’ble High Court at Porvorim.

3) Branch Manager,
Federal Bank Limited,
Ground Floor, Cosme Costa’s
Nucleaus, Porvorim,
Bardez, Goa.

4) Branch Manager,
Union Bank of India,

Farmagudi Branch,
Farmagudi, Ponda, Goa. ... RESPONDENTS

Mr. Sanjay K. Mangeshkar, Advocate for the Applicant.

Ms. Asha Desai, Special Public Prosecutor for Respondent No. 1.

Mr. Shailendra Bhobe, Public Prosecutor for Respondent No.2-State.

CORAM: BHARAT P. DESHPANDE, J.

RESERVED ON : 7th October, 2024

PRONOUNCED ON: 23rd October, 2024.

ORAL JUDGMENT

1. Admit. With the consent of the parties, heard finally at the admission stage.

2. The challenge in the present revision is to the order passed by the learned Sessions Court on 23.04.2024, thereby rejecting the application filed by the Applicant/Petitioner for release of his Bank account.

3. Heard Mr. Mangeshkar, learned Counsel for the Applicant, Ms. Desai, learned Special Public Prosecutor for

Respondent No. 1 and Mr. Bhobe, learned Public Prosecutor for Respondent No.2-State.

4. Mr. Mangeshkar, learned Counsel appearing for the Applicant submits that though the Petitioner is son of the Accused in connection with First Information Report No. 273/23, dated 16.05.2023, the transaction in his Bank account is beyond the check period. He submits that the Applicant was desirous of prosecuting his further studies abroad and for that purpose applied for a Visa. He would submit that the conditions of the student Visa are such that the Applicant has to demonstrate that he is financially sound and would sustain such financial burden while studying abroad.

5. Mr. Mangeshkar submits that the Petitioner requested one of his family friend Mr. K. D. Thomas to render financial assistance with the understanding that certain sum could be transferred to the Bank account of the Applicant which

would be kept in fixed deposit to show his financial stability and after completion of the course, return such amount to Mr. K. D. Thomas.

6. Mr. Mangeshkar submits that accordingly, Mr. K. D. Thomas transferred an amount of Rs. 22,00,000/- (Rupees Twenty Two Lakhs only) into the account of the Applicant on 11.04.2023, which he immediately converted into Fixed Deposit account. The Applicant was intending to return such an amount to Mr. K. D. Thomas after completion of his studies. However, in the meantime, the respondent while investigating the First Information Report lodged against the father of the Petitioner, instructed the said Bank to freeze the account and accordingly, the entire Bank account of the Applicant along with the Fixed Deposit account were freezed, thereby preventing the petitioner from operating or transferring such amount.

7. Mr. Mangeshkar submits that first of all, the transaction is independent and beyond the check period and therefore, such Bank account could not have been attached or freezed. He would submit that the Petitioner filed necessary application for de-freezing of the Bank account however, the learned Sessions Court rejected it totally on extraneous grounds.

8. Mr. Mangeshkar submits that there is absolutely no connection between the allegations against the father of the Petitioner with the amount received by the Petitioner from Mr. K. D. Thomas, the family friend and thus the impugned order requires interference.

9. An additional compilation is filed by the Petitioner, disclosing his bank account and the application for Visa.

10. Per contra, Ms. Desai, learned Counsel for Respondent No. 1 would submit that even though the First Information Report shows Check period from 01.04.2016 to 31.03.2023,

it is the prerogative of the Investigating Agency to decide the check period on the basis of investigation, while filing of the charge sheet.

11. Ms. Desai would submit that there are various transactions between the Applicant's father and Mr. K. D. Thomas from time to time covering an amount of more than Rs. 58,00,000./-(Rupees Fifty Eight Lakhs only). She would submit that the Petitioner's father is found prima facie indulged in corruption and he has amazed property, which is disproportionate to his known income to around 43%.

12. Ms. Desai would submit that the present transaction is clearly an attempt to transfer the ill-gotten amount which the Petitioner's father deposited with Mr. K. D. Thomas, being an Agriculturist. She would submit that the investigation would clearly reveal that Mr. K. D. Thomas and the father of the Petitioner had exchanged huge sum of money without any known source.

13. Rival contentions fall for determination.

14. Copies of bank statement furnished by the Petitioner would reveal that an amount of Rs. 22,00,000/- (Rupees Twenty Two Lakhs only) was transferred by Mr. K. D. Thomas into the bank account of the Petitioner on 11.04.2023. Immediately on the same date, said amount was transferred and converted into the Fixed Deposit account.

15. The remaining entries in the bank account produced from 01.04.2023, till 27.03.2024 would reveal the other entries, however, there is no other entry from Mr. K. D. Thomas into the account of the Petitioner.

16. Additional documents placed along with the compilation shows that the Petitioner went abroad for studies and as a student.

17. The reply filed on behalf of Respondents would go to show that the First Information Report was registered on the

basis of reliable sources on 16.05.2023, against the father of the Petitioner for the offences punishable under section 13 (2) read with 13 (1)(b) and Section 13(2) read with 13(1)(e) of Prevention of Corruption act, 1988. After registration of such First Information Report and on obtaining search warrant from the Special Court on 17.05.2023, the search was conducted at the house of the Petitioner’s father and 12 Bank accounts, Postal saving accounts along with other documents were found. Petitioner is admittedly the son of the Accused in the said First Information Report who is being investigated in connection with disproportionate assets.

18. The reply further shows that Mr. K. D. Thomas who is a close friend of the father of the Petitioner, had many transactions between them and their family members amounting to Rs. 58,37,000/-(Rupees Fifty Eight Lakhs Thirty Seven Thousand only) and that too without any written or legal agreement. The reply further shows that Mr. K. D. Thomas is an Agriculturist who files his Income Tax

Return showing his income nearly to Rs. 9,00,000/- (Rupees Nine Lakhs only) or so. Similarly, Mr. K. D. Thomas availed a housing loan of Rs. 20,00,000/- (Rupees Twenty Lakhs only). Thus, it is the contention of the Respondents that the modus operandi of the father of the Petitioner is to park the ill-gotten amount with Mr. K. D. Thomas and then use it from time to time for his own purpose. Mr. K. D. Thomas, who is an Agriculturist is not required to disclose his Agricultural income and taking advantage of it, the father of the Petitioner used to park such ill-gotten amount with Mr. K. D. Thomas.

19. The learned Trial Court in its impugned order considered this aspect and found that there is a prima facie nexus between Mr. K. D. Thomas and the father of the Petitioner, which clearly linked to disproportionate assets amazed by the Petitioner's father while working as a public servant.

20. The fact remains that the First Information Report shows check period ending March, 2023. Admittedly, the present transaction of Rs. 22,00,000/- (Rupees Twenty Two Lakhs only) into the account of the Petitioner is on 11.04.2023. However, it is also the fact that the Respondents conducted raid at the house of the Petitioner, somewhere in the month of May, 2023. Thus, the transaction in question is close to the end of the check period. Infact, it is 11 days subsequent to end of the check period. Besides, the investigation is going on and it would be the prerogative of the Investigating Officer to consider whether the transaction in question could be the amount which includes disproportionate assets of the father of the Petitioner.

21. It is no doubt true that Mr. K. D. Thomas transferred an amount of Rs. 22,00,000/- (Rupees Twenty Two Lakhs only) on 11.04.2023 into the Petitioner's account, however, the possibility of such amount being parked with Mr. K. D.

Thomas by the father of the Petitioner during check period cannot be ruled out as investigation is in progress.

22. The order impugned in the present revision, therefore cannot be termed as perverse or illegal so as to interfere with it in the revisional jurisdiction of this Court.

23. For the above reasons, revision fails and stands dismissed.

BHARAT P. DESHPANDE, J.