IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.03.2024

DELIVERED ON : 04.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.No.979 of 2022

1.S.Venkatesan
2.V.P.Chithra ... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
CCBEDF-III, No.20,
Veppery, Chennai.
(Cr.No.184 of 2019) ... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order passed on 08.02.2021 by the learned Judicial Magistrate No.I, Kanchipuram in C.M.P.No.1646 of 2020 and direct the respondent police to defreeze the savings bank account maintained by the petitioners with Karur Vysya Bank, Redhills Branch bearing Account No.1664155000060896.

For Petitioners : Mr.K.Madhan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

The petitioners have filed a petition under Section 451 of Cr.P.C. in C.M.P.No.1646 of 2020 before the learned Judicial Magistrate-I, Kanchipuram seeking to defreeze their bank accounts and to return the properties, which was not entertained and dismissed by the Lower Court by order dated 08.02.2021, against which the present revision has been filed.

2.The first petitioner is the Accused No.1 in Crime No.184 of 2019 for offences under Sections 465, 468, 471 and 408 of I.P.C. The second petitioner is the wife of first petitioner. The prosecution case is that the Executive Officer of Arulmigu Sundhareswarar Swamy Temple, Kovur, Chennai lodged a complaint on 12.12.2019 that the first petitioner was employed as a temporary accountant in Arulmigu Sundareswarar Swamy Temple, Kovur and he was entrusted with all the temple documents, records and ledgers including Fixed Deposit receipts in his custody. When the previous Executive Officer Srinivasan took steps to verify the temple accounts, he found forgery and misappropriation committed in the accounts of the temple. The first petitioner along with his accompanies attacked the said Executive Officer on 12.05.2015 with an intention to eliminate him. In that case the first petitioner arrayed as A1 along with other accused. He was suspended from service. During verification of the accounts, on 26.11.2019, it was found that a receipt for Fixed Deposit amount of Rs.26,86,280/- was issued for Account No.52457264763 instead of Account No.62488857264. On suspecion, the de-facto complainant contacted the State Bank of India, Kovur Branch and verified Account No.52457264763 and found that it was a forged receipt. Further the fixed deposit amount deposited in Account No.62488857264 got matured on 01.10.2019. The matured amount along with interest for a sum of Rs.27,31,703/- was handed over to the first petitioner by way of three demand drafts in the name of temple.

3.Further it revealed that forged documents in the name of Executive Officer submitted by the first petitioner using the available photostat copies of Aadhar card, posting order and other documents of the Executive Officer, prepared forged documents, projected them as genuine. Thereafter received the matured Fixed Deposit amount by three Demand Drafts. The said three Demand Drafts were deposited in City Union Bank, Ponneri Branch and there was no proceedings or authorisation by the Executive Officer to open such an account in Ponneri. The first petitioner has opened Account No.500101012248336 using forged signature. Further, transaction has been made in the said account in the name of temple for more than Rs.50 lakhs. Further enquiry with Repco Bank, Pallavaram Branch disclosed two fixed deposits encashed and forged fixed deposit receipts in the name of Repco Bank, Porur Branch, replaced in the temple documents. The date of maturity of fixed deposit altered. Further it revealed that the first petitioner along with his accomplice in a well planned manner had withdrawn the amount, made investment, projected as family property. The first petitioner purchased properties including three cars. The temple amount of more than Rs.50 lakhs misappropriated and swindled. Apart from it, the first petitioner created forged receipts in the name of the temple, projected as genuine using forged seal of the department and committed the offence. Now investigation in Crime No.184 of 2019 completed, charge sheet filed before the learned Judicial Magistrate against the petitioner and three others listing L.W.1 to L.W.18 with several documents.

4.The contention of the learned counsel for petitioners is that the petitioners are maintaining savings bank account with Karur Vysya Bank, Redhills Branch bearing Account No.1664155000060896, having balance of below Rs.2,000/-, 18 sovereigns of gold jewels of the second petitioner, three original title deeds of the first petitioner's father purchased in the year 1990, first petitioner's sister's husband of the year 2008 and first petitioner's mother's friend documents are available and death certificate, legal heir certificate and other office files and personal files kept in the bank locker.

Now due to the prohibitory order issued by the respondent police the petitioners are unable to operate the locker, collect the jewels and documents, which are noway connected to the above case. The Lower Court failed to consider that account at Karur Vysya Bank, Redhills Branch has been opened much earlier to the alleged encashment of fixed deposit and commission of misappropriation projected against the first petitioner. Further, the respondent police failed to report the freezing of the bank account of the petitioners to the concerned jurisdictional Court. The first petitioner was arrested in the above case and his confession recorded. The complaint against the first petitioner is that he misappropriated the temple funds to the tune of Rs.48,47,679/-. There is no material available with the respondent to show or infer that the account in Karur Vysya Bank, Redhills branch and documents kept in the locker are connected to the case. The Lower Court records that the issuance of prohibitory order and freezing of the petitioners' account, and not informing or reporting to the Lower Court, is clear violation as per the judgment of this Court in the case of *T.Subbulakshmi and another vs. The Commissioner of Police*. but had dismissed the petition.

5.He further submitted that the respondent police now states that they have completed the investigation, nowhere in their charge sheet the particulars about this account and locker details, taken as materials in the above case. The first petitioner now removed from service and he is suffering for daily livelihood and hence, he needs to dispose some property which stands in the name of his father for his survival. Further his sister is demanding original title deeds kept in the petitioners' locker, to deal with their property as per their wish. The second petitioner is unable to use the jewels, and she is not able to attend any of the family functions. Hence, they need the account to be de-freezed and permitted to operate the locker which are not case property. Hence, he prays for allowing this petition.

6.The learned Additional Public Prosecutor filed his counter and submitted that the first petitioner being a temporary accountant of Arulmigu Sundhareswarar Swamy Temple, Kovur for the past 10 years, taking advantage of the work pressure of the Executive Officers, who were entrusted with administration of several temples at various places, on constant move. Taking advantage of the same, the first petitioner created forged documents using the details and particulars of the Executive Officer, made false representation with the State Bank of India, Repco Bank, Karur Vysya Bank, City Union Bank and other banks. The fixed deposits of the temple misappropriated using the forged documents along with his friends, who are the co-accused in this case. The temple funds cheated and misappropriated to the tune of Rs.48,47,679/-. Apart from this, first petitioner created forged receipts in the name of the temple and thereby committed the offence of forgery, cheating and misappropriation. After registration of the case, the first petitioner was arrested and some of the properties could be retrieved. The first petitioner not only committed misappropriation and cheating, when one of the Executive Officers took steps to verify the temple accounts, the first petitioner engaged his friends and others to commit murder of the Executive officer, who was seriously injured and a separate case registered.

7.He further submitted that initially the case was registered by Central Crime Branch, Chennai on 12.12.2019, thereafter, due to trifurcation of the Chennai Police Commissionerate, there was some administrative difficulty in segregating and sending the case to the concerned Commissionerate. Hence, some delay caused in communicating the prohibitory order issued to the Bank. It is only a procedural delay due to the trifurcation of Commissionerate. Now locker opened in the presence of the petitioners and their Advocate and following articles were found:

KVB Karur Vysya Bank

Smart way to bank

Date : 25.03.2024

To

Inspector of Police,
Central Crime Branch,
EDF-I Team, Avadi,
Chennai – 600 054.

Sir

Sub : Venkatesan and Thilagavathy – 1664155000060896 account – Locker – reg.,

Ref : Avadi, Central Crime Branch, Cr.No.184/2019, U/s 465, 468, 471, 406 r/w 120(B) IPC & your letter dt. 12.03.2024

1. We have already submitted the account statement for the said period and informed about the account status along with our letter dated 19.03.2024 to your office.

2. Today we have opened the said locker number Unit-III T20 in the presence of Mr. L. Venkatesan (Manager – Branch Head), Mr. Akhilesh Patel (Assistant Manager), Mr. Ramasundaram (Inspector of Police), Mr. B. Mohan (Sub-Inspector of Police), Mr. Anandhakumar (Sub-Inspector of Police), Mr. N. V. Srinivasan (Notary Public – Reg.no.21045/2020), Mr. Muthukumar (Advocate) and along with the Locker hirers Mr. S. Venkatesan & Mrs. V. P. Chitra. The following documents are available in the said locker unit.

File No.1	1. Sale Deed – Doc.no.7199/2014 dated 11.07.2014 (Original) registered at SRO Red Hills and related documents
File No.2	1. Sale Deed – Doc.no.4700/1990 (Original) registered at SRO Ponneri and related documents 2. Will – Doc.no.70/2016 dated 19.09.2016 (Original) 3. NOC – SBI HSL
File No.3	1. [illegible] related documents (service history, accident case related documents, Voter id, Affidavit, Settlement fund request by his mother, etc.,)
File No.4	1. Partition Deed – Doc.no.716/2005 dated 02.09.2005 (Original) 2. Sale Deed – Doc.no.1175/2015 dated 26.08.2015 (Original) registered at SRO Pallipattu 3. Sale Deed – Doc.no.1176/2015 dated 26.08.2015 (Original) registered at SRO Pallipattu

THE KARUR VYSYA BANK LIMITED
[illegible]

Karur Vysya Bank
Smart way to bank

Jewels	1. Stone Neclace – 38.4 gms 2. Big Aram – 74.3 gms 3. Silver – Kunguma Simizh – 31.8 gms 4. Ring (Swamy) – 15.1 gms 5. Ring (4 no.s) – 15.1 gms 6. Bracelet (1 no.) - 8 gms 7. Kammal (3 jodi) – 16 gms 8. Dollar (Stone – 1 no.) - 4.2 gms 9. Motal (1 set) – 2 gms 10. Bangle (1 set) – 27.9 gms 11. Chain (stone – 1 no.) - 34.5 gms 12. Chain with pendent (1 no.) - 20.3 gms 13. Kasu 2 no.s and 4 no.s pipe with thread - 9 gms

Kindly acknowledge receipt of the letter and documents.

Thanking you

Yours truly

for The Karur Vysya Bank Ltd

Branch Manager

P.no-2

THE KARUR VYSYA BANK LIMITED

8.He further submitted that the first petitioner had conspired with other accused in committing serious offence of misappropriation of the temple funds, attempting to murder the Executive Officer and further the first petitioner is unable to give any valuable explanation in acquiring all these properties. The respondent police now contemplating to further investigate in this regard. The respondent police collected the transaction particulars of the concerned Account number. The same is being analysed, if required further investigation would be continued in this case. In any event, the first petitioner committed forgery, misappropriation, cheating along with his accomplice. Further the first petitioner is unable to give explanation for the properties, which is within his exclusive knowledge. In the absence of the same, the petitioners are not entitled for any relief. Accordingly, he prays for dismissal of the petition.

9.Considering the submissions made and on persual of the materials, it is seen that the first petitioner was employed as temporary accountant in Arulmigu Sundareswarar Swamy Temple, Kovur for the past 10 years. During this period, misappropriation in the temple funds committed, the temple was having fixed deposit in State Bank of India to the tune of Rs.26,86,280/- in Account No.62488857264. This fixed deposit receipt has been encashed by way of three demand drafts and the same were deposited in City Union Bank, Ponneri Branch. The receipt of the demand drafts from State Bank of India, re-investment in City Union Bank, Ponneri have all been done by the first petitioner by creating forged documents. Thereafter, from the said accounts, the amount to the tune of Rs.48,47,679/- misappropriated using various other bank accounts. The first petitioner is the fulcrum, who used the other accused Dhanasekar/A2, Ajith Kumar/A3 and Inba @ Inbarasan/A4. It is revealed the first petitioner had withdrawn Rs.6,00,000/-, A2/Dhanasekar had withdrawn Rs.26,76,000/-, A3/Ajith Kumar had withdrawn Rs.12,70,000/- and A4/Inba had withdrawn Rs.5,00,000/-. Thus, in total, the amount of Rs.50,46,000/- of the temple money has been misappropriated and swindled by the accused. This has been done over a period of time in a concerted manner by the first petitioner using forged documents along with his accomplice. Not only this, first petitioner had gone to the extent of attacking the Executive Officer, who initiated verification of the temple accounts. The petitioner acquired properties in his name and his family members name and his friends name. These particulars to be enquired and investigated. After opening of the locker, several documents collected. These documents needs further probe.

10.The explanation given for non intimation of freezing of bank accounts of petitioners to the trial Court due to trifurcation of the Commissionerate, seems to be reasonable. Further the petitioners are unable to give any details and explanation for the source of purchase of the properties and the jewels available in the locker. Hence, the petitioners as a matter of right cannot claim these properties, which has to be necessarily enquired and further investigated. It is for the respondent police to take appropriate steps in this regard.

11.In view of the above, this Court is not inclined to entertain this petition. Accordingly, this Criminal Revision Case is dismissed.

04.06.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

1.The Inspector of Police,
CCBEDF-III, No.20,
Veppery, Chennai.

2.The Judicial Magistrate No.I,
Kanchipuram.

3.The Executive Officer,
Arulmigu Sundhareswarar Swamy Temple,
Kovur, Chennai.

4.The Joint Commissioner,
Hindu Religious and Endowment Department,
Kanchipuram.

5.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

rsi

Pre-delivery order in
Crl.R.C.No.979 of 2022

04.06.2024