IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1589 of 2024

Padu Jagdeep Jiandani ... Petitioner/Defacto complainant

Vs.

1. The Inspector of Police,
F3-Nungambakkam Police Station,
Triplicane, Chennai – 600 006.
(Cr.No.284/2023) ... 1st Respondent/Complainant

2. The Manager,
State Bank of India-Egmore Branch,
45, Pantheon Road, Egmore,
Chennai – 600 008.

3. The Manager,
State Bank of India – Bhilai,
Bhopal Branch,
Bhilai, Durg, Chattisgarh – 490 026. … Respondents 2 and 3

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Cr.P.C., to set aside the order dated 01.04.2024 in Crl.MP.No.2448 of 2024 on the file of the XIV Metropolitan Magistrate at Egmore, Chennai.

For Petitioner : Mr.E.Karthikeyan
for M/s.AAV Partners

For Respondents : Mr.S.Udaya Kumar (for R1)
Government Advocate (Crl. Side)

ORDER

The Criminal Revision Case has been filed challenging the order dated 01.04.2024 in Crl.MP.No.2448 of 2024 on the file of the XIV Metropolitan Magistrate at Egmore, Chennai, dismissing the petitioner's application for transferring a sum of Rs.2,00,023.60p from the account of the suspect to the account of the petitioner.

2. The petitioner had lodged a complaint in Cr.No.284 of 2023 under Section 420 of the IPC and Sections 66, 66C and 66D of the Information Technology Act, alleging that on 18.11.2023, the petitioner had received a message asking for certain particulars and the petitioner had inadvertently touched the link sent to the said message and subsequently, she came to know that a sum of Rs.2,00,023.60p was transferred from her account. During the course of the investigation, the 1st respondent found that the money was illegally transferred to the account of the suspect in the 3rd respondent bank and issued letters to the bank to freeze the said account.

3. On coming to know of the said fact, the petitioner filed a petition before the learned Magistrate seeking for transfer of the said amount to her account. The 1st respondent had no objection for the transfer. However, the learned Magistrate dismissed the petition stating that no evidence has been produced by the petitioner to show that a sum of Rs.2,00,023.60p was transferred to the account of the suspect.

4. The learned counsel for the petitioner would submit that the 1st respondent on investigation found that the amount was transferred from the account of the petitioner to the account of the suspect; that only thereafter, the account of the suspect was frozen and therefore when that fact is admitted, the learned Magistrate ought not to have dismissed her petition on that ground.

5. The learned Government Advocate (Crl. Side) appearing for the 1st respondent on instructions would submit that the investigation revealed that the money was transferred from the account of the petitioner. He would further submit that the respondent had verified the said fact from the bank. However, he would submit that the money is required to establish the offence before the trial Court.

6. On perusal of the impugned order and in the light of the submissions made by the counsel on either side, this Court is of the view that the fact that the amount was illegally transferred from the petitioner's account to the account frozen by the 1st respondent is not in dispute at present. Hence, before the trial Court, the 1st respondent had no objection for transfer of the said amount to the petitioner's account. Further the fact that the money from the petitioner's account has been transferred can be established through documents and for that purpose, the amount need not be kept idle in the bank. Hence, this Court is of the view that the money can be transferred to the account of the petitioner. However, the same would be subject to the outcome of the trial as the accused has every right to disprove the prosecution case.

7. Therefore, the impugned order dated 01.04.2024 in Crl.MP.No.2448 of 2024 on the file of the XIV Metropolitan Magistrate at Egmore, Chennai, is set aside and the Criminal Revision Case stands allowed on the following terms:

(i) The petitioner shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a likesum to the satisfaction of the learned learned XIV Metropolitan Magistrate, Egmore, Chennai;

(ii) Thereafter, the 1st respondent shall defreeze the frozen account and transfer the amount of Rs.2,00,023.60p to the petitioner's account;

(iii) The return of the money would be subject to the outcome of the trial and the petitioner shall transfer the amount to the credit of the case as and when required by the learned Magistrate.

10.12.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
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1. The XIV Metropolitan Magistrate,
Egmore, Chennai,

2. The Inspector of Police,
F3-Nungambakkam Police Station,
Triplicane, Cehnnai – 600 006.

3. The Manager,
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4. The Manager,
State Bank of India – Bhilai,
Bhopal Branch,
Bhilai, Durg, Chattisgarh – 490 026.

5. The Public Prosecutor,
High Court, Madras.

SUNDER MOHAN, J.

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