



Crl.R.C.(MD)No.889 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.09.2024

Pronounced on : 19.10.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.889 of 2024

K.S.S.Girija Bai

... Petitioner

Vs.

The State represented by,
The Sub-Inspector of Police,
Cyber-Crime Wing- CCD-III,
Madurai City.
(Crime No.64 of 2023)

... Respondent

Prayer : This Criminal Revision Petition filed under Sections 438 r/w 442 B.N.S.S., to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.I, Madurai in Cr.M.P.No.1153 of 2024 vide order dated 17.05.2024 and set aside the same and consequently pass an order for returning the money to the tune of Rs.22,99,850/- lying in his account which has been seized by the respondent in connection with the case in Crime No.64 of 2023.



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For Petitioner : Mr.R.Anand

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

The Criminal Revision Petition is directed against the order passed in Crl.M.P.No.1153 of 2024 dated 17.05.2024 on the file of the Court of the Judicial Magistrate No.1, Madurai, dismissing the application filed under Section 457 of the Code of Criminal Procedure.

2. On the basis of the complaint lodged by the petitioner, FIR came to be registered in Crime No.64 of 2023 for the alleged offences under Section 66D of Information Technology (Amendment) Act 2008 and Section 420 IPC and during investigation, the respondent police has freezed the accounts of some of the accused and sum of Rs.66,71,741.77/- is available in those accounts.

3. The case of the petitioner is that the petitioner has been duped by the accused in the name of making the petitioner joining with them to do on the online transaction for earning profit, that the petitioner had realized



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finally that she has been cheated by them to the tune of Rs.22,99,850/-, that the petitioner, after coming to know about the fraud played by the accused, has immediately lodged a complaint and on that basis, FIR came to be registered, that since the respondent police has freezed the account which contains an amount of Rs.66,71,741/-, the petitioner is entitled to get back her amount of Rs.22,99,850/-, that the petitioner is the victim of the above referred online fraud and there are undisputed and impeachable documents to show that the petitioner's money was there in the said accounts, that all the petitioner's transactions are admittedly through banking transfer, for which, statement of accounts are very much available which can never be questioned, that even after freezing of the accounts, the holders of the accounts have not bothered about their money as they knew well that all that money is nothing but the proceeds of the crime and that therefore the petitioner was constrained to file the above application for returning of money, but the learned Magistrate, by observing that investigation is in initial stage and whether the amount is owned by the petitioner has to be confirmed, was not inclined to grant the relief.

4. Admittedly, only on the basis of the complaint lodged by the



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petitioner, FIR came to be registered.

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5. It is not in dispute that during investigation, the respondent police has come across the accounts maintained by the persons, who had received the amounts from the petitioner through bank transactions and had taken steps to freeze those accounts. It is also not in dispute that in the freezed accounts, sum of Rs.66,71,741/- is available.

6. As rightly contended by the learned counsel appearing for the petitioner, though the accounts were freezed, the account holders have neither questioned the action of the respondent police nor challenged the freezing of their bank accounts.

7. The learned counsel appearing for the petitioner would mainly contend that the petitioner, as per the instructions and directions of the accused, has transferred the amount to the accounts referred by them and she had transacted to the tune of Rs,22,99,850/- and according to the petitioner, she has produced necessary records to show that the said sum was transferred from her account. As rightly pointed out by the learned



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counsel appearing for the petitioner, even in the application filed under Section 457 Cr.P.C., the petitioner has furnished all the particulars.

8. No doubt, the respondent police has raised objections for returning the amount to the petitioner before the learned Judicial Magistrate. But when the matter was taken up for hearing, the respondent police has not raised any specific objection for returning the amount and the learned Government Advocate (Criminal Side) would fairly admit that the petitioner had made transactions to the tune of Rs.22,99,850/- as evident from the records and in the absence of any rival claim, the petitioner is entitled to get the money, but at the same time, the petitioner may be directed to re-deposit the amount if it is found that the said amount is not belonging to the petitioner but to somebody as investigation is in initial stage.

9. Considering the above facts and circumstances and also taking note that there is no ownership dispute with regard to the amount claimed by the petitioner and that the amount is very much available in the bank accounts which came to be freezed, the impugned order rejecting the



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petitioner's claim cannot be sustained and as such, the petitioner is entitled to get back her amount but on terms.

10. In the result, the Criminal Revision Petition is allowed and the impugned order dated 17.05.2024 is hereby set aside. The learned Judicial Magistrate No.1, Madurai is directed to return the amount of Rs.22,99,850/- (Rupees Twenty Two Lakhs Ninety Nine Thousand Eight Hundred and Fifty only) to the petitioner on condition that the petitioner shall furnish a security to the said amount to the satisfaction of the learned Judicial Magistrate No.1, Madurai and on giving affidavit undertaking to re-deposit the said amount into the Court as and when the Court directs.

19.10.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Judicial Magistrate No.1,
Madurai.
2. The Sub-Inspector of Police,
Cyber-Crime Wing- CCD-III,
Madurai City.



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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.889 of 2024

Dated : 19.10.2024