
(2022) 06 TEL CK 0002
In the Telangana High Court
Case No : Writ Petition No. 12595 Of 2019

B. Appalanarasamma

APPELLANT

Vs

Central Bureau Of Investigation

RESPONDENT

Date of Decision : 06-06-2022

Acts Referred:

Citation : (2022) 06 TEL CK 0002

Hon'ble Judges : Dr. G. Radha Rani, J

Bench : Single Bench

Advocate : Vinod Kumar Deshpande, N. Nagender

Final Decision : Allowed

Judgement

1. This writ petition is filed by the petitioner seeking Writ of Mandamus directing the 1st respondent to defreeze the bank account and fixed deposits of the petitioner and savings bank account held in the respondent Nos. 2 to 4/Banks and for consequential directions.

2. Heard learned counsel for the petitioner Sri Vinod Kumar Deshpande and the learned Special Public Prosecutor for CBI Sri N. Nagender for the respondent No.1.

3. Learned counsel for the petitioner submitted that the petitioner was the mother of Sri B.Ramalinga Raju, Sri B.Suryanarayana Raju and Sri B. Rama Raju. She was aged about 85 years. Her husband was a businessman. She opened an account in the respondent No.4 bank in her name and she also had fixed deposits with respondent Nos.2 and 3 at Jubilee Hills, Kalyannagar Branch. The Central Bureau of Investigation (CBI) has registered cases against her sons by showing them as accused in C.C.No.1,2,3 of 2010 and all the accounts of the accused, their family members and relatives were freezed. In the process, the bank account pertaining to the petitioner was also freezed by the 1st respondent. After detailed investigation, the 1st respondent filed charge sheet by showing few members as accused. The petitioner was not made as an accused nor the charge

sheet referred to the accounts and fixed deposits of the petitioner as connected to the said case. The XXI ACMM-cum-Special Sessions Judge Nampally convicted the accused in the above case and sentenced them to imprisonment on 09.04.2015.

4. He further submitted that the petitioner was arrayed as accused before the Special Judge for Economic Offences, Hyderabad in C.C.No.134 of 2014 for insider trading. The Hon'ble Apex Court cleared the name of the petitioner in the proceedings launched by the Securities Exchange Board of India (SEBI) for alleged Insider Trading vide C.A.No.17303 of 2017, dated 14.05.2018. Subsequent to the judgment in C.A.No.17303 of 2017, the petitioner filed discharge petition in C.C.No.134 of 2014 and the same was pending for adjudication. Immediately after the Apex Court's order, SEBI issued notice dated 21.06.2018 to the trading members of the Exchange indicating that the period of restraint imposed on the petitioner stood vacated. After the Hon'ble Apex Court Order, petitioner made an application to the respondents seeking to know the status of her accounts and also requested the respondents to defreeze her accounts and fixed deposits. The respondent Nos.2 to 4 replied vide letters dated 09.10.2018 and 05.11.2018 respectively that the 1st respondent had addressed letter dated 07.04.2015 to continue the freezing of the accounts and therefore, the accounts could not be defreezed. The letter dated 07.04.2015 was not served on the petitioner. The judgment in C.C.No.1,2,3 of 2010 was delivered two days thereafter on 09.04.2015. The petitioner also gave representation to the 1st respondent on 22.11.2018 to which the 1st respondent had not replied. The action of the 1st respondent in directing the respondent Nos.2 to 4 to continue freezing all the savings bank accounts and fixed deposits of the petitioner was arbitrary, illegal, contrary to law and without jurisdiction. The petitioner filed Income Tax returns before the Income Tax Authority. She declared the income in the above accounts to the Income Tax Department. The money in the SB Account and Fixed Deposits was the personal money of the petitioner, saved for any eventuality of expenditure during her old age. The petitioner was suffering from old age ailments and would need to operate the account to meet her day-to-day requirements. Her husband died in the year 2001. She needed money during her life time and prayed to allow the petition.

5. The counter affidavit was filed by the 1st respondent. The Special Public Prosecutor for CBI contended that the petitioner was one of the end beneficiaries of fraud perpetrated by the promoters of M/s.Satyam Computer Services Ltd. (M/s.SCSL) viz., Sri B.Ramalinga Raju, Sri B.Rama Raju and their family members. The petitioner was holding 3,92,500 shares in her name. Over a period of time from 1999 to 2001, Sri B.Ramalinga Raju and other promoters of the company falsified books of accounts of the company through wrong projections of the sale figures and profits of the company and lured thousands of innocent and gullible investors to buy shares at artificially higher prices. The promoters of the company, fraudulently offloaded their shares indirectly through the accounts of 17 individuals who were their family members and trusted employees. The

petitioner was one among them. The modus operandi adopted was initially to transfer the physical shares through endorsement in the names of these 17 individuals who in turn deposited the same in their de-mat accounts and got them offloaded in the market through investment companies viz., M/s. Elem, M/s. Fincity, M/s. High Grace, M/s. Veeyes Investments and M/s. High Sound etc. Subsequently the investment companies sold these shares in the market and transferred the amounts to the individual accounts of 17 persons. Then from their accounts, amounts were transferred to the accounts of the promoters through cheques. During the year 2000-2001, the proceeds obtained through sale of shares was gifted to the family members of Sri B. Ramalinga Raju by the promoters who offloaded the shares through the investment companies. In the subsequent period, Sri B. Ramalinga Raju and other promoters of the company including the petitioner pledged their shares in M/s. SCSL and availed loans from various NBFCs to a tune of Rs.1,951 crores by offloading their shares when the share prices were artificially kept high and also by resorting to insider trade practice as they were having access to unpublished and inside information about the fabrication of the financial statements of the company. Further, the promoters gained wrongfully by receiving the dividends which was declared on the basis of the false and inflated profits. By these fraudulent acts of the promoters of the company, 15 Indian Institutional Investors who invested in the shares of M/s. SCSL suffered wrongful losses to a tune of Rs.1,611 crore. The promoters of the company and their family members including the petitioner invested the wrongful gains in bank accounts and fixed deposits maintained in different banks and also acquired huge chunk of immovable assets in the form of 6,000 acres of land, 37,000 square yards of housing plots and 87,439 square feet of built-up area. A total of 1,065 properties were acquired by the accused and their family members worth around Rs.350 crores in the name of 327 companies.

6. He further submitted that the amounts for creation of fixed deposits and savings accounts in question with Karur Vysya Bank and HDFC Banks in the name of the petitioner were the proceeds of the crime and hence were seized during the investigation. They were liable to be confiscated as such could not be released under any circumstances. He contended that the petitioner was not made as an accused because, the transactions made in the name of the petitioner were done by her sons Sri B. Ramalinga Raju, Sri B. Rama Raju and Sri B. Suryanarayana Raju. The trial Court convicted the accused on the basis of evidence produced by the Central Bureau of Investigation (CBI). The CBI filed appeal for enhancement of the sentence. The accused Nos.1 and 2 also filed appeal against the conviction. The appeals filed by them were pending before Metropolitan Sessions Judge, Nampally. Therefore, it was not desirable for defreezing the accounts, as the amounts involved were liable for confiscation in favour of the State exchequer and prayed to dismiss the petition.

7. Perused the record.

8. As seen from the record, the bank accounts of the petitioner and her fixed deposits were freezed by the 1st respondent during the course of investigation in C.C.No.1,2,3 of 2010 registered against the sons of petitioner and others. The contention of the 1st respondent was that the amounts which were kept in the Savings Bank account of the petitioner and fixed deposits in the name of the petitioner were the proceeds of crime and they were liable to be confiscated. The Special Public Prosecutor for 1st respondent contended that the trial Court convicted the accused on the basis of evidence produced by the Central Bureau of Investigation (CBI) and the transactions pertaining to the petitioner were part of documentary evidence which were marked as Exs.604, 608, 651, 728, 742, 746, 763, 775, 788, 897, 899, 1448, 1698 to 1744, 1746, 1779 to 1781, 2623 to 2626, 2752, 2805 and 2806.

9. Admittedly, the petitioner was not shown as accused by the 1st respondent in CC.No.1,2,3 of 2010 registered against her sons. She was neither the promoter nor the Director of Satyam Computers Services Limited. The Hon'ble Apex Court in Civil Appeal No.17303 of 2017, which was filed against the proceedings launched by the SEBI for alleged insider trading wherein the petitioner was also arraigned as an accused, observed that:

"In this appeal, Shri C.A. Sundaram, learned senior counsel appearing on behalf of the appellant, states that the present appellant is the mother of B. Ramalinga Raju, B. Rama Raju and B. Suryanarayana Raju. She was neither a promoter nor a director of Satyam Computers Services Limited (SCSL) and had lost her husband in the year 2001. She sold her shares in Satyam Computers Services Limited (SCSL) on 12th and 15th December, 2003 to three group companies, in an off-market sale, as she needed money considering that she had to sustain herself as a widow. According to Shri Sundaram, though his client would be a relative of B. Ramalinga Raju and, therefore, a connected person, yet, it is obvious that the off market transactions made way back in the year 2003 at a price of around Rs.340/- per share did not attract the 1992 Regulations as the price of these shares rose sharply only thereafter touching a figure of Rs. 966.80/-in the year ending of 2006. According to the learned senior counsel, there was no evidence whatsoever of any complicity of this lady with the fraud perpetrated by her son and his cohorts. He referred to the judgment of the Whole Time Member and to the majority judgment of the Appellate Tribunal holding that all that has been found against his client is that she is a close relative of B. Ramalinga Raju and by virtue of this close relationship, it, therefore, must be presumed that she had access to Unpublished Price Sensitive Information (UPSI). Indeed, this is the basis of both the Whole Time Member's judgment as well as the majority judgment of the Appellate Tribunal. Given the fact that this lady was not proceeded against by the Central Bureau of Investigation (CBI) or by the Enforcement Directorate and that the Serious Fraud Investigation Officer (SFIO) report does not, in any manner, refer to her, and given the fact that she was neither promoter nor director of Satyam Computers Services Limited (SCSL), it is obvious that the test of the second part of clause

2(e)(i) is not met in the facts of this appeal. Also, it must be remembered that had she been in possession of Unpublished Price Sensitive Information (UPSI), she would also have sold shares at their peak price instead of selling them at a depressed price in the year 2003. For all these reasons, this appeal is also allowed, and the majority judgment of the Appellate Tribunal is set aside.”

10. Considering the contentions of the learned Special Public Prosecutor of CBI as stated in the counter affidavit by the 1st respondent and the observations of the Hon’ble Apex Court in the above aspect that she had made the off market transactions way back in the year 2003 at a price of around Rs.340 per share and the price of the shares rose sharply in the year 2006 touching the figure of Rs.966.80 and that the petitioner, if she was in position of Unpublished Price Sensitive Information (UPSI) would have sold the shares during peak price inspite of selling at depressed price in the year 2003 and cleared her name in the proceedings launched by SEBI and considering that no attachment orders were issued by the Court during the trial or in the final judgment and considering the age of the petitioner who was at the fag end of her life and the submission of the learned counsel for the petitioner that she required money for her expenditure during her old age, it is considered fit to direct the 1st respondent to defreeze the bank accounts and fixed deposits of the petitioner and permit her to operate the accounts and fixed deposits

11. In the result, the Writ Petition is allowed directing the 1st respondent to defreeze the bank accounts and fixed deposits of the petitioner by giving a direction to respondent Nos.2 to 4 to allow the petitioner to operate the accounts and fixed deposits.

12. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.