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(2021) 07 TEL CK 0024

In the Telangana High Court

Case No : Criminal Revision Case No. 338, 339 Of 2019

P.Madhusudhan APPELLANT

Vs

State Of Telangana RESPONDENT

Date of Decision : 20-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 397, 401, 451
Prevention Of Corruption Act, 1988 — Section 13(1)(d), 13(2)

Citation : (2021) 07 TEL CK 0024

Hon'ble Judges : G. Sri Devi, J

Bench : Single Bench

Advocate : K Surender

Final Decision : Allowed

Judgement

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. aggrieved by the order, dated 08.03.2019, passed in Crl.M.P.No.897

of 2018 in Cr.No.7/RCO-ICU-ACB/2018, on the file of the Principal Special Judge for SPE and ACB Cases, City Civil Courts, Hyderabad, wherein

the application filed by the revision petitioner/third party (hereinafter referred to as â??the revision petitionerâ?) to defreeze his bank accounts, was

dismissed.

Brief facts of the case are that the revision petitioner filed Crl.M.P.No.897 of 2018 under Section 451 of Cr.P.C., seeking to defreeze the S.B

Account bearing No.404206041000001 with Vijaya Bank, Kamareddy Branch and S.B. Account bearing Nos.1013021014064 and 101302104001002

with Gayatri Bank, Kamareddy Branch. The averments in the said petition disclose that the revision petitioner is the proprietor of M/s. Trinethra

Marketers, Kamareddy and is running the said business since 15 years and that he is having S.B. Account bearing No.404206041000001 with Vijaya

Bank, Kamareddy Branch and Account bearing No.1013021014064 with Gayatri Bank, Kamareddy Branch in the name of his business firm M/s.

Trinethra Marketers and other S.B. Account bearing No.101302104001002 with Gayatri Bank, Kamareddy Branch, in the name of the revision

petitioner. It is further stated that purporting to the investigation in the above crime, the Investigating Officer found some entries in the account of

Pasupunuri Venkata Ramana and he stated that he along with the revision petitioner used to do real estate business and they have sold out one

property in the month of April, 2018 and both of them received money and as such the Investigating Officer instructed the Managers of Vijaya Bank

and Gayatri Bank, Kamareddy Branches to freeze the above said accounts, due to which the revision petitioner is facing untold hardship to carryout

his business and to meet his day-to-day necessities. It is further stated that the revision petitioner is in no way concerned or connected with the case

registered against the 2nd respondent/AO-2.

The 1st respondent/complainant filed counter before the Court below stating that the revision petitioner is suspected to be a benami of the 2nd

respondent and the main case was registered against the 2nd respondent for the offence punishable under Section 13 (1) (d) read with Section 13 (2)

of the Prevention of Corruption Act, 1988 and that the Investigating Officer is having objection to defreeze the accounts. It is also stated in the

counter that on enquiry, the 2nd respondent stated that he is having seven other properties at various places on his name and in the name of his family

members and kept the original documents with his childhood friend P.Venkata Ramana. During the search, the documents pertaining to all the seven

properties belonging to the 2nd respondent and his family members were found in the residence of one P.Venkata Ramana, which clearly goes to

show the nexus between them and as such all the documents were seized and produced in the Court. The said P.Venkata Ramana also stated that he

along with the revision petitioner used to do real estate business and that they sold one property in April, 2018 and both of them received money and in

this regard three bank accounts of the revision petitioner were searched and found huge transactions in the accounts, for which he could not give

probable and convincing explanation. Therefore, the Investigating Officer sent a

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requisition to the concerned banks to freeze the accounts as the

revision petitioner is suspected to be a benami to the 2nd respondent. It is also stated that the case is under investigation and at this stage, defreezing

of the said accounts is not possible as the revision petitioner may withdraw or divert the amount and, therefore, prayed to dismiss the petition.

After considering the rival submissions and the material available on record, the trial Court dismissed the said petition. Challenging the same, the

present Criminal Revision Case is filed.

Heard learned Counsel appearing for the revision petitioner and the learned Special Public Prosecutor for ACB appearing for the 1st

respondent/complainant.

Learned Counsel for the revision petitioner would submit that the learned Special Judge failed to consider that the crime was registered on 06.06.2018

and the accounts were freezed immediately. Though there is lapse of ten months, the A.C.B. has failed to establish any nexus or that the money

belongs to the accused. Admittedly, the revision petitioner has his own business and on an assumption the third party cannot be penalized. It is further

submitted that the learned Special Judge erred in refusing to defreeze the accounts without giving any valid reasons except stating that the case is

under investigation. It is also submitted that the revision petitioner sold property against which two cheques bearing Nos.848893 and 848894 were

received by him and the said transactions are reflected in the account on 09.04.2018, 24.04.2018 and 26.04.2018. Apart from this, there are no other

major deposits and the said two transactions can be easily verified since they are transfer transactions and not cash deposits. It is also submitted that

A/c No.404206041000001 of Vijaya Bank is a over draft account and the Vijaya Bank has extended loan facility to the revision petitioner, which is

evident from the loan account and as such, the freezing of the said over draft account is adversely effecting the business of the revision petitioner. He

further submitted that no useful purpose would be served and no prejudice would be caused to the 1st respondent/complainant if the bank accounts of

the revision petitioner are defreezed.

Learned Special Public Prosecutor appearing for the 1st respondent/complainant would submit that a criminal misconduct case was registered against

the 2nd respondent herein and during the search of his house, the 2nd

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respondent had stated that he is having seven other properties at various places

on his name and on the name of his family members and he has kept all the original documents of the said properties with his childhood friend

P.Venkata Ramana. On enquiry, the said Venkata Ramana stated that he along with the revision petitioner used to do real estate business and that

they sold one property in April, 2018 and both of them received the money, which clearly shows that the revision petitioner is a benami of the 2nd

respondent. He further submits that on enquiry, the revision petitioner failed to give probable and convincing explanation with regard to the source of

huge amount credited to his bank accounts. He also submits that the investigation is still pending and hence the accounts cannot be defreezed till the

completion of the investigation. He further submitted that the revision petitioner is well aware about the illegal activities and acquisition of the

properties by indulging in corrupt and illegal practices of the 2nd respondent and the revision petitioner facilitated him to divulge the monies to him.

Therefore, it shows that there is a nexus between the 2nd respondent and the revision petitioner and as such the trial Court has rightly dismissed the

application.

A perusal of the material available on record would show that the statements of the bank accounts of the revision petitioner vide A/c

Nos.404206041000001 with Vijaya Bank, Kamareddy Branch and Nos.1013021014064 and 101302104001002 with Gayatri Bank, Kamareddy Branch

were already secured by the 1st respondent/complainant from the concerned banks. Admittedly, the revision petitioner is a third party and no crime

has been registered against him. Whether the amount deposited in the bank accounts of the revision petitioner is connected to the outcome of the

illegal gratification of the 2nd respondent/Accused Officer, if any, could be proved from the entries made in the bank accounts and as such there is no

need to freeze the bank accounts, as already the statements of the bank accounts of the revision petitioner were secured by the 1st

respondent/complainant. Moreover, the gold ornaments which were seized in the house of the 2nd respondent/Accused Officer, were returned to the

wife and daughter-in-law of the 2nd respondent on the applications made by them before the learned Special Judge vide orders dated 03.02.2020

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passed in Crl.M.P.No.70 of 2020 and Crl.M.P.No.71 of 2020 respectively. Further, no incriminating material was found by the Investigating

Authorities with regard to the transactions between the 2nd respondent and the revision petitioner, even after freezing of the bank accounts of the

revision petitioner and as such the question of freezing the bank accounts of the revision petitioner may not be necessary for the purpose of the case.

Having regard to the facts and circumstances of the case, the order under challenge is set aside and the trial Court is directed to defreeze the Savings

Bank accounts of the revision petitioner bearing No.404206041000001 with Vijaya Bank, Kamareddy Branch and S.B. Account bearing

Nos.1013021014064 and 101302104001002 with Gayatri Bank, Kamareddy Branch, subject to the revision petitioner furnishing a bond equivalent to

the amount in the credit of his accounts as on the date of freezing.

Accordingly, the Criminal Revision Case is allowed.

Miscellaneous petitions, if any, pending, shall stand closed.

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