
(2015) 03 KAR CK 0112
In the Karnataka High Court
Case No : Criminal Petition No. 200260/2015

Syed Farhat Ali

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451, 457
Penal Code, 1860 (IPC) — Section 34, 406, 409, 420, 423

Citation : (2015) 03 KAR CK 0112

Hon'ble Judges : K.N. Phaneendra, J.

Bench : Single Bench

Advocate : Shivanand V. Pattanshetti, for the Appellant; Maqbool Ahmed, H.C.G.P., Advocates for the Respondent

Final Decision : Disposed off

Judgement

K.N. Phaneendra, J.—The petition is filed seeking quashing of the order dated 10.9.2013 passed by the learned JMFC, Manvi in CC No. 456/2009 which was confirmed in the order dated 10.12.2013 by the I Addl. Sessions Judge, Raichur in Crl. Rev. Pet. No. 70/2013, pertaining to the petitioner and permit the petitioner to operate Account No. 18760 with the Corporation Bank, Raichur Branch by revoking the frozen account.

2. I have heard the arguments of the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent and perused the records.

3. The undisputed facts are that:

"Manvi Police have laid a charge sheet in CC No. 456/2009 against six accused persons and the present petitioner is arrayed as A6 for the offence punishable under Section 406, 409, 420, 423 read with Section 34 of IPC (arising out of Crime No. 92/2007). It is also an undisputed fact that during the course of investigation, the Investigating Officer has frozen the SB account No. 18760 of

Corporation Bank, Raichur Branch, of this petitioner and an amount of Rs. 50 lakhs, which was kept in his account was freezed by the investigating agency. The petitioner has approached the Trial Court by filing an application u/s. 451 of Cr.P.C. for revoking the frozen account and permit him to operate the said account and permit him to withdraw the said amount. The Trial Court vide order dated 10.9.2013 rejected the said plea, on the ground that the charge sheet has already been filed and the said amount is required during the course of trial and ultimately, the Court has to decide whether the petitioner is entitled for the amount or not. And consequently, dismissed the application of the petitioner." 4. Being aggrieved by the said order, the petitioner has approached the I Addl. Sessions Judge, Raichur in Crl. Rev. Pet. No. 70/2013, and the said Revision Petition also came to be dismissed on the ground that the witnesses to the prosecution witnesses i.e., C.Ws. 4, 5 and 6 have stated that they have actually deposited the said amount in the account of the petitioner from their account, out of the amount paid to them by KHB, having purchased the land from the complainant and C.Ws. 4 to 6. But the Trial Court and the Revisional Court have come to the conclusion that the complainant and C.Ws. 4 to 6 are very poor persons and there is some suspicion as to why they have to deposit the said amount in the account of the accused persons. Therefore, as alleged whether there was any cheating or whether there was any breach of trust on the part of A6 has to be thrashed out during the course of full dressed trial. Therefore, the Revisional Court has also dismissed the said Revision Petition.

5. After hearing the detailed arguments of the learned counsel Sri Shivanand V Pattanshetti, ultimately, this Court is of the opinion that when the said amount was disputed by the parties to the proceedings, particularly, when the complainant and other witnesses claiming on the allegations of breach of trust and also cheating by A6, the said amount was in the account of A6 and they are also entitled for the said money etc., unless and until that particular point is thrashed out, it may not be safe to release the amount in favour of the accused petitioner at this stage.

6. However, I find non application of the judicious mind by the Trial Court as well as the Revisional Court. Instead of keeping the said money in the SB account, which may not fetch more interest at the initial stages, the Court could have ordered to deposit the said amount in any of the nationalised bank in FD so as to fetch higher rate of interest, so that the party who succeeds in the petition would reap that money. It appears that has not been done. If this Court directs the Trial Court to order the same bank in which the account is pending to keep that money in the FD, in which higher rate of interest could be secured and ultimately the Trial Court is at liberty to pass appropriate order u/s. 457 of Cr.P.C. at the end of the trial with regard to the entitlement of the said amount otherwise, ultimately if any person succeeds, may loose the interest on the said amount if it is kept as it is in the SB account.

7. In the above said circumstances, I find no illegality or irregularity committed

by the courts below and therefore, the Criminal Petition is liable to be disposed off

8. Hence, the following order:

"The petition filed by the petitioner is disposed off with a direction to the Trial Court to expedite the matter and dispose of the case on merits as early as possible preferably not exceeding six months from the date of receipt of the copy of this order. Further, the Trial Court is also directed to issue directions to the Corporation Bank, Raichur to keep the said amount in the name of A6 in FD for reasonable period of one year so that it would fetch the higher rate of interest on the said amount." With these observations, the petition stands disposed off.