

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL REVISION CASE NO: 1731 OF 2017

Criminal Revision Case filed under Section 397 and 401 of Cr.PC against the Judgment dated 22.03.2017 made in Crl.M.P.No.888 of 2016 in Cr.No. 3/RCA-HR/2016 on the file of the Court of the I Additional Special Judge for SPE and ACB cases cum V Additional Chief Judge, City Civil Court, Hyderabad.

Between:

Smt K.Anuja, W/o D.Janardhana Mahesh, R/o. H. No. 32-SN.124, Devi Nagar Street, Sainik Nagar Colony, Sri Sai Maha Sadan, R.K.Puram, Malkagiri, Secunderabad -056

...Petitioner/3rd Party

AND

1. The State of Telangana, Rep by its Special Public Prosecutor, Through Inspector of Police, ACB R.R. District, Hyderabad Range

...Respondent/Complainant

2. Dacha Janardhan Mahesh, S/o Late D.Janardhan R/o. H. No.32-SN.124, Devi Nagar Street, Sainik Nagar Colony, Sri Sai Maha Sadan R.K.Puram, Malkagiri, Secunderabad- 056

...Respondent/Accused Officer

Counsel for the Petitioner : Sri M J Siva Rama Krishna

**Counsel for the Respondent No.1 : M/S Oormila representing
Sri Sridhar Chikyala (SC SPL PP ACB TS)**

Counsel for the Respondent No.2 : None appeared

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE E.V.VENUGOPAL
CRIMINAL REVISION CASE No.1731 OF 2017

ORDER :

This Criminal Revision Case is preferred by the petitioner/3rd party under Sections 397 and 401 of Criminal Procedure Code (for short 'Cr.P.C.') aggrieved by the order dated 22.03.2017 in Crl.M.P.No.888 of 2016 in Crime No.3/RCA-HR/2016 on the file of the learned I Additional Special Judge for SPE and ACB Cases-cum-V Additional Chief Judge, City Civil Courts at Hyderabad wherein and whereby the prayer of the petitioner under Section 451 of Cr.P.C. to defreeze her account bearing No.52095104636 laying with State Bank of Hyderabad, Himmathnagar Branch, Secunderabad and to allow her to operate the same was rejected.

2. Heard Sri M.J.Sivarama Krishna, learned counsel for the petitioner and Mrs.Oormila, learned counsel representing on behalf of Sri Sridhar Chikyala, learned special public prosecutor for ACB/1st respondent. None appeared for the 2nd/unofficial respondent.

3. Crime No.3/RCA-HR/2016 on the file of the learned I Additional Special Judge for SPE and ACB Cases-cum-V Additional Chief Judge, City Civil Courts at Hyderabad for the offences under Sections 13(1)(e) read with Section 13(2) of Prevention of Corruption Act, 1988 (for short 'PC Act') was registered by the 1st

respondent/Anti Corruption Bureau (for short 'ACB') against the husband of the petitioner herein alleging that he being a public servant and worked as Town Planning Supervisor in the office of Deputy Commissioner, Circle No.XVIII, Secunderabad amassed wealth disproportionate to his known sources of income during the check period i.e. from 06.08.1987 to 06.04.2016 and he failed to satisfactorily give explanation for the same. During the course of investigation, with the due permission of the Court, the 1st respondent officials conducted searches and seized certain documents in relation to the properties held in his name and other family members. They also seized the passbooks and other relevant material pertaining to his bank account as well as the petitioner and got the said accounts freezed.

4. The petitioner herein filed Crl.MP No.888 of 2016 under Section 451 of Cr.P.C. before the Court below seeking to defreeze her account contending that she was working as Office Superintendent in South Central Railway Employees' Co-operative Society and her monthly salary was being credited into the said account and due to the freeze of the said account, she became handicapped and incapacitated in maintaining her day to day banking transactions and that her husband has nothing to do with the said account and that there is no iota of evidence to show that the alleged ill-gotten

money of her husband was enrooted into her bank account. She further contended that the respondent/ACB officials did not follow due procedure while freezing the said account. Learned counsel for the petitioner relied upon the decision rendered in **Dr. Shashikant D. Karnik Vs. State of Maharashtra**¹ contending that the accounts cannot be attached without compliance of provisions of Section 102 Cr.P.C.

5. The 1st respondent/ACB opposed the said petition mainly contending that the accused officer committed the offence of criminal misconduct by abusing his official position as a public servant and acquired assets with the ill-gotten money in the names of his father-in-law, sister-in-law, brothers-in-law, wife and children and he had done benami transactions and that huge money transactions were found in the said account during the period from 2008 to 2016 by way of cash and cheques deposited by the petitioner and the same has to be verified and clarified by the accused officer and that the amount of Rs.4,68,502/- found in the subject bank account is the material evidence to establish the complicity of the accused officer.

6. The Court below, upon considering the entire material placed before it and considering the submissions made on either

¹ 2008 Crl.L.J.148

side, dismissed Crl.MP No.888 of 2016 holding that the said account was freezed long back by duly following the procedure and that the petitioner failed to give cogent and acceptable explanation for the transactions other than the salary credited into the said account and that investigation is pending. Stating thus, the Court below directed the petitioner to open a separate salary account and transact her day to day transactions.

7. Aggrieved by the said findings of the Court below, the petitioner preferred the present criminal revision case mainly contending that the Court below failed to appreciate the real facts of the case, erroneously held that the petitioner was an outsourcing employee and failed to give proper explanation for the amounts lying in her account and that the 1st respondent is having every opportunity to verify the entries of the said account and that there is no evidence to establish that the amounts lying in the said account are the ill-gotten money of her husband. Stating thus he requested to defreeze the subject bank account and allow the petitioner to operate the same.

8. On behalf of the 1st respondent counter affidavit is filed denying the averments of the petition mainly contending that during the course of investigation it came to light that the accused officer purchased several properties in his name, in the name of his wife i.e.

the petitioner herein and in the names of his in-laws and accordingly, the properties and the bank accounts were attached on 17.02.2020 by obtaining necessary orders from the Court and duly following the procedure laid down thereunder. The accused officer, during the check period, was found in possession of assets disproportionate to his known sources of income to the tune of Rs.5,27,88,076/-, which he cannot explain satisfactorily. As per the statement of subject account, the credits and outstanding balance as on the date of check period was more than the salary income of the petitioner and that she failed to give proper and acceptable explanation for the same and accordingly, her salary account was freezed. Learned special public prosecutor for ACB relied upon the decision rendered in **Virender Singh Vs. Central Bureau of Investigation²** contending that details of offence are required to be proved during the course of trial by adducing acceptable and admissible evidence and in that view of the matter, the prayer of the petitioner for defreezing her account may not be considered. It is also contended on behalf of the 1st respondent that the Court below directed the petitioner to open another salary account to transact her day to day banking transactions and hence, the petitioner has every

² 2012 (7) R.C.R. (Criminal) 1993

opportunity to open new account but instead of doing so, the petitioner embarked upon to knock the doors of this Court.

9. This Court perused the entire material available on record including the impugned order and heard the arguments on either side. In the case between **Teesta Atul Setalvad Vs. State of Gujarat**³ the Hon'ble Apex Court had categorically held that any property includes any bank account creating suspicion about commission of an offence, the Investigating Officer in the course of investigation has power under Section 102(1) of Cr.P.C., to seize or prohibit operation of bank account of any person which maybe found under circumstances creating suspicion of commission of any offence. The bank account need not be only of the accused but can be of any account creating suspicion about commission of said offence. When considering the issue of whether 'bank accounts' fall within the scope of Section 102 of the Cr.PC, it was held by the Hon'ble Supreme Court in **State of Maharashtra Vs. Tapas D. Neogy**⁴ that even bank accounts fall within the phrase 'any property' under Section 102 of the Cr.PC and could therefore be frozen by the investigating authorities, if found to have direct links with the commission of an offence. However, the seizure of bank account by

³ (2018) 2 Supreme Court Cases 372
⁴ (1999) 7 SCC 685

police under Section 102 of Cr.P.C., must be backed by suspicion and necessary evidence pointing towards such suspicion.

10. In the case on hand, searches at the premises of the accused officer and subsequent seizure of the incriminating material were conducted upon obtaining warrants and permissions from the competent Court. The allegation levelled by the 1st respondent regarding the subject bank account is that the husband of the petitioner amassed wealth disproportionate to his known sources of income by abusing his official position as a public servant and acquired properties in his name, in the name of the petitioner and their relatives. Further allegation with respect to freezing of the account is that petitioner failed to give cogent and convincing explanation for the transactions other than the salary credited into the said account. Basing on the failure of the petitioner to give proper explanation the prosecution alleges that some part of ill-gotten money of the accused officer was channelized into the subject account of the petitioner and hence, the same has to be verified and explained by the accused officer and that if the amount lying in the subject account is withdrawn, in case of 1st respondent succeeding in proving the guilt of the accused officer and channelization of the said amount into the subject account, it will be difficult for recovery of the same.

11. The Court below, taking all the above aspects into consideration, while dismissing Crl.MP No.888 of 2016, has rightly advised the petitioner to open another salary account for her day to day banking transactions. In the considered view of this Court, there is no irregularity in the said findings as the purpose of the petitioner to withdraw her salary from time to time from the bank account will be served and on the other hand, the amount lying in the subject account will be safeguarded till completion of trial and finding the guilt or otherwise of the accused officer. There is force in the contention of the learned special public prosecutor for ACB that if the amount lying in the said account is withdrawn, in the event of 1st respondent succeeding in proving the guilt of the accused officer and channelization of his money into the subject account, it will be difficult for its recovery.

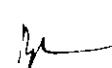
12. Be that as it may, as per the recitals of counter affidavit filed on behalf of the 1st respondent/ACB it can be seen that investigation of the case is concluded, charge-sheet is filed, the Court below assigned CC No.13 of 2023 and is presently at the stage of trial. It is also recited in the said counter affidavit that as per the salary particulars obtained from the employer of the petitioner, they found excess amounts lying in the said account other than her lawful earnings and hence, they are suspecting that the said account

was used as a conduit for channelization of some of the ill-gotten money of her husband and hence, the same has to be tested with the evidence to be adduced during trial by either side. It is true that seizure of bank account by police on suspicion must be backed by necessary evidence. To some extent, this Court finds force in the contention of the petitioner that she cannot be prevented or prohibited from utilizing her lawful earnings deposited in her bank account to meet her day to day expenditure. It is true that from inception of the case, seven years have been elapsed and the amount lying in the subject account is kept idle without letting it for usage and without deciding its sanctity or otherwise, which cannot be decided in the present proceedings except upon the full-fledged trial to which the trial Court alone has jurisdiction. In such circumstances, to meet the ends of justice, this Court feels it apt to direct the lower Court to conduct and conclude the trial as expeditiously as possible.

13. With the above observations, this criminal revision case is disposed of. Miscellaneous applications, if any pending, shall also stand dismissed.

SD/- I NAGALAKSHMI,
DEPUTY REGISTRAR.

//TRUE COPY//


SECTION OFFICER

To,

1. The I Additional Special Judge for SPE and ACB cases cum V Additional Chief Judge, City Civil Court, Hyderabad
2. One CC to Sri M J Siva Rama Krishna, Advocate [OPUC]
3. One CC to Sri Sridhar Chikyala (SC SPL PP ACB TS), [OPUC]
4. Two CD Copies

HIGH COURT

DATED:30/04/2024



ORDER

CRLRC.No.1731 of 2017

DISPOSING OF THE CRLRC

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