

**SUPREME COURT OF INDIA****Date of Decision: 5<sup>th</sup> April, 2024**

CRIMINAL APPELLATE JURISDICTION

SLP (CRL.) No..... of 2024 (Diary No. 4235 of 2021)

CONTEMPT PETITION (CIVIL) No. 105 of 2024

**OPERATION MOBILIZATION INDIA & ORS. ...PETITIONERS****VERSUS****STATE OF TELANGANA & ORS. ...RESPONDENTS****GOWRIPAGA ALBERT LAEL ...CONTEMPT PETITIONER****VERSUS****JOSEPH GREGORY D'SOUZA & ORS. ...RESPONDENTS****Legislation:**

Sections 409, 420, 477(A) of the Indian Penal Code

Section 37 of the Foreign Contribution (Regulation) Act 2010

**Subject:** Dispute involving the freezing of accounts by CID, Telangana State under the Foreign Contribution (Regulation) Act, 2010. The Supreme Court's decision focused on allowing the petitioners to use their accounts for salary and institutional expenses, under certain conditions, while continuing the investigation.

**Headnotes:**

Freezing of Accounts under FCRA – Interim Relief – Supreme Court permits petitioners to utilize frozen accounts for salary and institutional expenses, subject to conditions – Orders proper maintenance and auditing of accounts, with quarterly statements to investigating agency or Trial Court – Proceedings to continue in other forums – No findings on contempt allegations recorded. [Paras 1-8]

Interim Order Made Absolute – Court directs continuation of interim relief granted in previous order – Petitioners permitted to use frozen accounts for operational expenses of educational and health institutions – Requirement for proper accounting and auditing emphasized – Observations restricted to smooth functioning of institutions, with no findings on merits made. [Paras 7-8]

Referred Cases: None.

## **J U D G M E N T**

### **VIKRAM NATH, J.**

1. This Court, on 7<sup>th</sup> April, 2021 passed the following order:

“FIR No. 22 of 2016 was lodged by respondent no. 3 on 29.9.2016 under Sections 409, 420, 477(A) and Section 37 of the Foreign Contribution (Regulation) Act 2010. Investigation was taken up by the Economic Offences Wing (CID), Telangana State. The challenge to the FIR was rejected in SLP(Crl.) No. 3888 of 2017 on 12th September, 2017 directing “the investigation to be concluded as expeditiously as possible and action, if required, in accordance with law be initiated thereafter.” Close on heels to the same on 17th August, 2018 in another SLP(Crl.) D. No. 27899 of 2018 preferred by the informant respondent no. 3, declining interference, it was observed, “however, if the petitioner has any grievance with regard to the progress of the investigation of the case it will be open for him to move the appropriate forum including the High Court, if so advised.”

In W.P. No. 13044 of 2019 preferred by respondent no. 3 before the High Court seeking directions for investigation by the Central Bureau of Investigation, a counter affidavit was filed by the Deputy Inspector General of Police, CBI, ACB, Hyderabad declining that the CBI had any role in the investigation for reasons mentioned therein.

On 21st November, 2020 after more than four years of the registration of the First Information Report, the CID Telangana State froze the accounts of the petitioners. This compelled the petitioners to approach the High Court which rejected the challenge to the freezing of the accounts, thus the present appeal.

During the pendency of the present matter before this Court an I.A. No. 48029 of 2021 has been filed by the respondent-State of Telangana. It encloses a letter dated 24th March, 2021 addressed to the Ministry of Home Affairs. The relevant extract reads as follows:

“It is to state that, the accused A-2, Joseph D’Souza filed a Special Leave Petition in the Hon’ble Supreme Court of India vide SLP (Criminal) Diary No. 4235 of 2021 against the Judgment and order passed by the Hon’ble High Court of Telangana, Hyderabad vide W.P. No. 22547 of 2020, dated 27.01.2021 and contending that the State CID Unit is not authorized to conduct investigation in the case of FCRA when the amount involved is more than 1 Crore and that CBI is the competent authority under the notification issued by Ministry of Home Affairs vide SO No. 2446 (E), dated 27-10-2011.

In view of the above facts and circumstances, it may be pleased to pass orders in the matter either permit to the CID TS to continue further investigation and file charge sheet or pass orders by entrusting further investigation to CBI, ACB as deemed fit.”

Pertinently this letter has been written after we issued notice on 22nd February, 2021. Explaining the letter paragraph 10 of the I.A. No. 48029 of 2021 states as under:

“10. ....Respondents are not authorized to conduct investigation in the case of FCRA and that the CBI is the competent authority to conduct investigation as the amount involved is more than one crore. It was further stated that keeping into consideration the subsequent revelations through investigation, the respondents pleaded that orders may be passed to permit them to file charge sheet or to pass orders entrusting the investigation to CBI.”

At this stage, we are, therefore, satisfied on the own showing of the respondent-State of Telangana that the order of attachment dated 21st November, 2020 needs to be stayed in so far as salary and institutional expenses are concerned. It is ordered accordingly.

The petitioners are directed to maintain proper and complete statement of accounts with regard to the institutional and salary expenses incurred from the concerned accounts frozen by order dated 21st November, 2020, in the meantime.

List the matter in the last week of July, 2021. In the meantime, parties may complete their pleadings.”

2. Mr. Shyam Divan, learned Senior Counsel appearing for the petitioners submitted that the petitioners would be content and satisfied if the liberty granted by the aforesaid order to the petitioners to continue utilising their accounts for payment of salary and institutional expenses and would

continue to maintain proper and complete statement of accounts for the same are continued, the petitioners would contest the pending proceedings before the High Courts and other Courts on their own merits and would avail such remedies as may be available under law with regard to the proceedings initiated against them. He thus submitted that the petition could be disposed of by making the order dated 7<sup>th</sup> April, 2021 absolute.

3. On the other hand, learned counsel for the complainant as also the State of Telangana admitted the fact that the petitioner-organisation was actually running 103 institutions all over the country in 18 States and also more than a dozen primary health centres for which they would require funds and that they were not interested in any way in shutting down the said institutions, both educational and health centres, but would insist that the statement of accounts must be properly maintained duly audited by chartered accountants and the same should be made available to the investigating agency as and when required on a regular periodical basis as may be directed by this Court.
4. Learned counsel for the private respondents tried to press the Contempt Petition but considering the aforesaid submissions, we are not inclined to go into that question and leave it open for the investigating agency or the Trial Court monitoring the liberty granted by this Court to the petitioners for utilising their accounts to the limited extent of salary and institutional expenses are concerned.
5. We may note here that Mr. Divan had taken the Court through various documents to show that actually there was no contempt and whatever amount had been withdrawn was within the permissible limits depending upon the expenses incurred in the previous years and the allegations of any withdrawal from the accounts for purposes other than the salary and institutional expenses, is not correct.
6. As already noted above, we are not going into that question. Accordingly, we are not recording any finding on the above aspect.
7. In view of the above, we dispose of the petitions making the interim order dated 7<sup>th</sup> April, 2021 absolute, however, with a rider that the petitioners would not only maintain proper and complete statement of accounts but would also get the same audited by a Chartered Accountant and provide quarterly statements of the same to the Investigating Officer or to the Trial Court on regular basis. The pending proceedings before all other forums to continue

in accordance with law where it would be open for all the parties concerned to raise all such contentions as may be available under law. We also make it clear that we have not made any observations on merits and the above order has been passed only for smooth functioning of the 103 educational institutions and more than a dozen primary health centres run by the petitioners.

8. All the pending applications including contempt petition stand disposed of.

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