

**Raman Kumar and ors. Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/689802](http://sooperkanoon.com/689802)

**Court :** Delhi

**Decided On :** Jun-01-1987

**Reported in :** 1987(13)DRJ31

**Judge :** Jagdish Chandra, J.

**Acts :** Prevention of Corruption Act, 1860 - Sections 5(2); [Indian Penal code, 1860](#) - Sections 420; Criminal Law Amendment Ordinance 1944 - Sections 3

**Appeal No. :** Criminal Revision Appeal No. 149 of 1986

**Appellant :** Raman Kumar and ors.

**Respondent :** State

**Advocate for Pet/Ap. :** B.S.C. Singh,; M.L. Sachdev,; Mukesh,;

**Judgement :**

**Jagdish Chandra, J.**

(1) This criminal revision is directed against the order dated 30th May 1986 passed by Shriubhash Wason, then Chief Metropolitan Magistrate whereby the prayer of the petitioners for releasing the various properties and bank accounts was declined. Petitioners Raman Kumar and Madan Kumar are brothers and Smt. Raj Rani is their mother.

(2) The C.B.I, registered a case as Fir 1/86 under Sections 420/467/ 468/471 and Section 120-B Indian Penal Code and Section 5(2) of the Prevention of Corruption Act on 16-1-1986 on the allegations that the petitioner Raman Kumar in conspiracy with his brother Chaman Kumar conspired to cheat State Bank of India. The C.B.I. (Banking Division) registered another case as R.C. 2/1986 on 28-1-1986 for offences under Sections 120-B/420/467/471/477A and Section 5(2) of the Prevention of Corruption Act on the allegations that the petitioner Raman Kumar also conspired with Vipin Kumar during the same period and in pursuance of that conspiracy nearly a sum of Rs. 18 lacs was credited to the account of Vipin Kumar. Thereafter, in February 1986 the C.B.I, registered another case as R.C. 4/86 against Raman Kumar and one other on similar allegations. Raman Kumar was at the relevant time during the period September 1983 to April 1984 working as a clerk in the Services Branch of the State Bank of India, 11, Parliament Street, New Delhi and the functions of that Branch were to manage inward and outward clearing of cheques and other negotiable instruments of all the local branches of the State Bank of India. The aforesaid Services Branch of the State Bank of India received negotiable instruments from all the local branches of the State Bank of India every day which are meant for collection from local branches of other banks including Punjab & Sindh Bank and U.C.O. Bank. Raman Kumar who was at the relevant time working in the Services Branch of the State Bank of India was a clerk concerned meant for tying the list of negotiable instruments received in the Services Branch with reference to the Punjab & Sindh Bank and U.C.O. Bank. Raman Kumar is alleged to be the brain behind the fraudulent siphoning off of huge amounts of the funds of State Bank of India and so far the fraud discovered is to the sum of Rs. 58 lacs.

(3) Along with the revision petition annexures A, B and C have been filed by the petitioners which show the cash, gold-ornaments and various other things including pass-books, cheque-books, receipt books of various financiers, deposit receipts and pay-in-slips etc. which were seized by the C.B.I. on conducting searches from the following premises :- (a) residential premises A-10 Derawala Nagar, Delhi, in occupation of Raman Kumar, Chaman Kumar and their father Radhey Lal; (b) second floor of House Z-7, Model Town-11, Delhi-9 in occupation of Shri Radhey Lal and his sons, Chaman Kumar, Raman Kumar and Madan

Kumar; (c) office/shop/go down under the name and style of M/s. Raj Electronics at F-14/55, Model Town-11.

(4) Before the learned Chief Metropolitan Magistrate the contention raised on behalf of the C.B.I, was that under Criminal Law Amendment Ordinance, 1944 (for short the Ordinance) the cash amount and other articles purchased out of the amount received by deceit were liable to be attached and as such the petitioners were not entitled to operate the accounts which held the amount earned by benefit money and further to the release of various other properties including vehicles etc. which had been the procurement of such an amount. The learned Chief Metropolitan Magistrate felt that the investigation till then had revealed that huge unaccounted amount had been deposited by the petitioners in various banks' accounts and prima facie such amount had been earned by deceit i.e. cheating various banks, principally the State Bank of India where Raman Kumar was working in the Central Collection Branch. He was further of the view that the amounts lying in those accounts were part of the case property and if released by allowing the petitioners to operate the accounts, the State or the C.B.I, may not be able to get the same attached as per the provision of Criminal Law Amendment Ordinance, 1944. He was of the same view regarding the release of the Datsun Car, motor-cycle and gold ornaments on Superdari. He ultimately declined the prayer of the petitioners regarding the decreeing and releasing of the bank accounts and the gold jewellery and the vehicles aforesaid. Any how, he ordered the return of income-tax files of M/s. Raj Rani, Chaman Kumar and M/s. Raj Electronics to the persons from the same had been seized. The perusal of the impugned order would, thus, show that the purpose permeating therein was to enable the C.B.I, to seek attachment of these properties including the accounts under Sections 3 and 4 of the Ordinance. Section 3 of the Ordinance contemplates the making of an application for attachment of the property subject-matter of any scheduled offence (an offence specified in the Schedule to this Ordinance) to the District Judge and the State Government may, whether or not the Court has taken cognizance of the offence authorise the making of an application to the District Judge Under Section 4 of this Ordinance ad-interim attachment can be ordered by the District Judge. On receipt of an application under Section 3 the District Judge is to investigate the objections of the interested persons against the attachment

and in doing so he is to follow the procedure and exercise all the powers of the court in hearing the suit under the Code of Civil Procedure and is also to record evidence. Till the date of the hearing of the revise petition on such attachment was stated to have been sought by the C.B.I. It is not known whether the C.B.I, had thereafter sought or not the attachment under Sections 3 and 4 of the Ordinance.

(5) In view of the aforesaid the impugned order passed by the learned Chief Metropolitan Magistrate is subjected to ihe order passed by the learned District Judge under Sections 3 and 4 of the Ordinance on the application of the C.B.I.,'State Government. If no such application has so far been made by the C.B.I./State Government for attachment under the Ordinance, the same may be within three months from today and the CBI/Stale Government shall make all oul efforts for obtaining decision on the same at the earliest and without any delay. If no such application for attachment is made within three months from today, the properties seized and the accounts frozen shall stand released.

(6) With these observations, the revision petition stands disposed of.