

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.288 OF 2016

(M/S. F.A. CONSTRUCTION & ANR...VS..STATE OF MAH. THR. SP ACB, NAGPUR & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : MAY 05, 2016.

Heard Shri Shyam Dewani, advocate for the
applicant, Shri N.B.Jawade, A.P.P. for the non-applicant No.1
and Shri S.D.Ingole, advocate for the non-applicant No.3.

The contention of the applicants is that the directions issued by the non-applicant No.1 to the banks to freeze the accounts of the applicants are unsustainable being not in consonance with the provisions of Section 102 of the Code of Criminal Procedure. The learned advocate for the applicants, relying on the judgment given in the case of *Shashikant D. Karnik Vs. State of Maharashtra*, reported in **2008 Cri. L.J. 148** and the judgment given by the Full Bench of this Court in the case of *Vinodkumar Vs. State of Maharashtra*, reported in **2011(2) Mh.L.J.908** has submitted that the mandatory requirements of Section 102 of the Code of Criminal Procedure are not complied with by the non-applicant No.1 and therefore, the impugned communications are required to be quashed and the directions are required to be given that the accounts of the applicants which are freezed be de-freezed/released. It is further submitted that the overdraft accounts of the applicants cannot be freezed in exercise of powers under Section 102 of the Code of Criminal Procedure.

The challenges raised by the applicants require consideration.

RULE.

The prayer of the applicants for interim relief cannot be granted in entirety as it would amount to granting the final relief. However, the submissions made on behalf of the applicants that the overdraft facility cannot be stopped by the non-applicant No.1 is required to be considered.

The directions given in the impugned communications regarding freezing of Overdraft Account No. 319204040016048 with the Union Bank of India and regarding Overdraft Account No. 1401/8137 with Bombay Mercantile Co-operative Bank Ltd. are stayed.

The directions given in the impugned communications regarding freezing of Current Account No.319201010041919 with the Union Bank of India and Current Account No. 1101/2372 with Bombay Mercantile Co-operative Bank Ltd. shall be in force until further orders.

Shri N.B.Jawade, A.P.P. waives notice for the non-applicant No.1 and Shri S.D.Ingole, advocate waives notice for the non-applicant No.3.

JUDGE