IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.2582 of 2016

Dr.L.Prakash .. Petitioner/Accused

Vs.

The State rep. by
The Assistant Commissioner of Police (L&O)
Vadapalani Range
Chennai-600 026. .. Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order in Crl.M.P.No.3258 of 2001, dated 31.12.2001 in Crime No.1466 of 2001 on the file of the learned XVII Metropolitan Magistrate and direct to de-freeze the petitioner's bank accounts namely, (i) City Bank, Account No.5195875447, Annasalai Branch, (ii) Union Bank of India, Account No.001138, Egmore Branch, and inform the Bank Managers respectively.

For Petitioner : Mr.B.Natarajan

For Respondent : Mr.C.Emalias
Addl. Public Prosecutor

O R D E R

This petition is filed for setting aside the order made in Crl.M.P.No.3258 of 2001, dated 31.12.2001 in Crime No.1466 of 2001 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai and direct to de-freeze the petitioner's bank accounts namely, (i) City Bank, Account No.5195875447, Annasalai Branch, (ii) Union Bank of India, Account No.001138, Egmore Branch, and inform the Bank Managers respectively.

2.The petitioner has been arrayed as an accused in Crime No.1466 of 2001 for the offences punishable under Sections 67 and 72 of Information Technology Act, 2000, Section 4 read with 6 of Indecent Representation of Women (Prohibition) Act, 1986, Section 27 of Arms Act, 1959, 120B and 506(ii) IPC.

During investigation, petitioner's bank accounts are freezed. After investigation, a charge sheet has been filed and a case was committed to the Sessions Court in S.C.No.9 of 2004 on the file of the learned Additional District and Sessions Judge (Fast Track Court No.V), Chennai, which was ended in conviction. Challenging the said conviction and sentence, the petitioner has preferred Crl.A.No.770 of 2011 before this Court. This Court by an order dated 24.04.2015, upheld the conviction and modified the sentence alone. In pursuant to the sentence, the petitioner has paid the fine amount and the entire proceedings initiated against the petitioner was over.

3.Learned counsel for the petitioner submits that now the petitioner has been exonerated from the charges levelled against him and the period of incarceration was set off. He further submits that the fine amount has also been remitted by the petitioner. Therefore, he prays that the petitioner's bank accounts are to be de-freezed.

4.Learned Additional Public Prosecutor submits that at the time of pronouncing the order, no specific order has been passed by both the trial Court and the Appellate Court in respect of freezing of petitioner's bank accounts. Hence, it is the duty of the trial Court to pass appropriate order on the above aspect to ascertain whether the amount belongs to the petitioner or whether the amount is a sale proceeds for transferring the videographs to USA. He further submits that since the accused has been convicted, the amount shall not be given to him. Therefore, he prays that the learned Sessions Judge may be directed to enquire the matter and pass appropriate order in respect of de-freezing of petitioner's bank accounts.

5.Considered the rival submissions made on both sides and perused the typed set of papers.

6.It is seen from the records that the case has been registered against the petitioner in Crime No.1466 of 2001 for the offences punishable under Sections 67 and 72 of Information Technology Act, 2000, Section 4 read with 6 of Indecent Representation of Women (Prohibition) Act, 1986, Section 27 of Arms Act, 1959, 120B and 506(ii) IPC. During investigation, petitioner's bank accounts are freezed. After due investigation, charge sheet has been filed and the case was committed to the Sessions Court and taken on file in S.C.No.9 of 2004 on the file of the learned Additional District and Sessions Judge (Fast Track Court No.V), Chennai, wherein the petitioner was convicted. At the time of trial, since the petitioner was convicted, no order has been passed in respect of whether the petitioner's bank accounts to be de-freezed or the amount to be confiscated to the Government. Aggrieved over the same, the petitioner/accused has preferred an appeal in Crl.A.No.770 of 2011 before this Court. This Court has upheld the conviction and modified the sentence alone by directing the petitioner to pay a sum of Rs.1,19,000/- as fine amount and the same has been paid by the petitioner.

7.Now the point to be decided is that whether the amount in the frozen account belongs to the petitioner or it is the sale proceeds for transferring the videographs to USA? Since the conviction imposed on the petitioner is not set aside and sentence alone has been modified, no order has been passed by this Court in respect of the amount in the frozen account. Under such circumstances, I am of the view, it is a fit case for issuing a direction to the learned Sessions Judge to enquire the matter. Accordingly, the learned Additional District and Sessions Judge (Fast Track Court No.V), Chennai, is directed to enquire the matter in respect of the above aspects after issuing notice to the petitioner as well as the investigating agency and pass appropriate order on merits and in accordance with law within a period of one month from the date of receipt of a copy of this order.

8.With the above direction, the Criminal Original Petition stands disposed of.

kj

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Additional District and Sessions Judge,
(Fast Track Court No.V), Chennai.

2. The XVII Metropolitan Magistrate, Saidapet, Chennai.

3. The Assistant Commissioner of Police (L&O)
Vadapalani Range, Chennai-600 026.

4.The Public Prosecutor, High Court, Chennai.

+ 1 cc to Mr.B.Natarajan, Advocate Sr 21090

KR/11/4/16 Crl.O.P.No.2582 of 2016