IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.5286 and 5294 of 2016

1. Dr.A.C.Muthiah ... Petitioner
in Crl.O.P.No.5286/2016

2. Devaki Muthiah ... Petitioner
in Crl.O.P.No.5294/2016

Vs.

1. State by
The Deputy Inspector General of Police,
Central Bureau of Investigation,
Bank Security and Frauds Wings,
Bengaluru. ... 1st Respondent
in both Crl.O.Ps.

2. The Chief Manager,
State Bank of India,
Kotturpuram Branch,
Chennai. ...2nd Respondent
in Crl.O.P.No.5286/2016

3. The Senior Manager,
Canara Bank,
Kotturpuram Branch,
Chennai. ...3rd Respondent in
Crl.O.P. No 5286/2016 &
2nd Respondent in Crl.O.P. 5294/2016.

Prayer in Crl.O.P.No. 5286/2016: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the seizure order issued by the 1st respondent and to revoke the instructions to seize and put hold the bank accounts of the petitioner given to 2nd respondent State Bank of India, Kotturpuram Branch A/c.No.10019361101 and 3rd respondent Canara Bank, Kotturpuram Branch A/c.No.1550101004521 and permit the petitioner to operate the Bank accounts.

Prayer in Crl.O.P.No. 5294/2016: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the seizure order issued by the 1st respondent and to revoke the instructions given to 2nd respondent, Canara Bank, Kotturpuram Branch to seize and put hold the bank accounts A/c.No.1550101005978 and A/c.No.1550101007649 of the petitioner and permit the petitioner to operate her Bank accounts.

For Petitioner in both Crl.O.Ps : Mr.V.Gopinath, Senior Counsel for M/S.M.Nirmal Kumar

For Respondent 1 in both Crl.O.Ps : Mr.K.Srinivasan Special Public Prosecutor

For Respondent 2 in Crl.O.P. No 5286/2016: Mr.N.Elumalai for Mr.J.Pothiraj

For Respondent 3 in Crl.O.P. 5286/2016 and for 2nd Respondent in Crl.O.P.5294/2016 : Mr.S.Kesavan

COMMON ORDER

These two petitions are filed for similar relief namely to set aside the seizure order issued by the first respondent and to revoke the instruction to the banks were the accounts operated have to be put on hold and freeze the accounts.

2. The gist of the facts leading to the filing of the present petitions is as follows:

The Central Bureau of Investigation, Bank Securities & Frauds Cell, Bangalore has registered a case No. RC 6(E)/ 2015/CBI/BS&FC/BLR, on 21.09.2015, against A.C. Muthaiah (A1), Ex-Chairman of M/s. First Leasing Company of India, who is the petitioner before this Court in Cr.Rc.No.5286/2016, and few others for offence under Section 120-B r/w 420, 467, 468, 471 and 477-A IPC, based on a written complaint preferred by one Veligeti Srinivasa Rao, Deputy General Manager, IDBI Bank Ltd., Chennai regarding fraud to tune of Rs.274/- crores perpetuated by persons at the helm of affairs operating M/S.First Leasing Company of India Ltd., Chennai. Persuant to the said First Information Report and in the course of the investigation, many accounts which stood in the name of First Leasing Company, it's director and shell companies of First Leasing were freezed. In the course of freezing the accounts, some of the accounts held by the persons who were not arrayed as accused in the case, but closely related to the accused in the case were also freezed. The investigation officer has informed the respective banks to put on hold the operation of the accounts. In the case in hand, the accounts listed below operated by the petitioners namely A.C.Muthaiah and Devaki Muthiah in Canara Bank, Kotturpuram branch were put on hold as per the instruction of the Deputy Inspector General of Police, CBI, Banglore and same has been indicated to the account holders by the bank vide letter dated 17.10.2015.

1. SB 1550101004521 Mr.A.C.Muthiah
2. CA 1550201000045 Mr.A.C.Muthiah
3. SB 1550101009315 Mr.A.C.Muthiah
4. SB 1550101080177 Mr.A.C.Muthiah
5. SB 1550101005978 SMT. Devika Muthaiah
6. SB 1550101007649 SMT. Devaki Muthaiah

3. A similar communication has been received by the petitioner A.C.Muthaiah in Crl.O.P.No.5286/2016 from State Bank of India in respect of his account No.10019361101. The contention of the petitioners herein is that while invoking the power under Section 102 of Cr.P.C., freezing of the accounts ought to have been intimated to the Magistrate, forthwith and to the party concern. Whereas, in this case, they came to know about the freezing of their accounts through the Bank only and there is no rhyme, reason or any material to connect the money lying in their account to the alleged crime.

4. The learned Special Public Prosecutor has filed objection wherein, it is stated that immediately after freezing of these accounts, the same has been intimated to the Hon'ble Chief Metropolitan Magistrate, on the same day through speed post and the parties were also informed orally through phone. In any event, after freezing of the accounts, the parties has made representation to the CBI to defreeze the account placing their point of justification to defreeze the account. However, no order has been passed by the investigating agency either to defreeze the accounts or to proceed further in the matter, by attachment or confiscation of the amount as per the procedure laid down under the law. In such event, this Court is of the opinion that any property suspected to be material object of the crime alleged or proceeds of the crime should be dealt with in accordance with law as early as possible and cannot be kept freezed perpetual, without any further proceedings.

5. In an identical situation in the very same case (R.C.No.6(E)/2015/CBI/BS&FC/BLR) when one of the parties approached this Court for defreezing their account, this Court after considering the facts and the law governing the issue had directed the respondent to take decision regarding the accounts they have freezed within a specific period and communicate the same to the account holder and if they are not inclined to defreeze and intimate the same to the Bank concern or if they

want to proceed with the money lying in those freezed accounts, they should initiate action within particular time. This Court feels that similar direction in this case is suffice to meet the ends of justice, Hence this Court passes the following direction:

The investigation officer is directed to take a decision within a period of 15 days from the date of receipt of a copy of this order;

Whether the accounts mentioned in the petitions ought to be freezed or not. In case he is of the opinion that if any of the accounts shall be allowed to operate, the same may be communicated to the bank and to the account holder;

If, the investigation officer have enough material to proceed against any account for forfeiture or seizure, such proceedings shall be initiated within 15 days from the receipt of the order;

If no such action is initiated, the concern account holder, (the petitioners herein) can file petition before the trial Court and get their accounts defreezed on furnishing bond equal to the amount in the credit of their account as on the date of freezing;

If any such petition is filed, the trial Court need not insist on the personal appearance of the parties.

6. Accordingly, the criminal original petition stands disposed of.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

AT

To

1. The Deputy Inspector General of Police,
   Central Bureau of Investigation,
   Bank Security and Frauds Wings,
   Bengaluru.

2. The Public Prosecutor,
   High Court, Madras.

+2 Ccs to Mr.S. Udhayakumar, advocate sr 92281.
+2 Ccs to Mr.S. Kesavan, advocate sr 92183.
+1 CC to Mr.J. Pothiraj, advocate sr 92203.
+2 Ccs to Mr.M. Nirmal Kumar, advocate sr 92280.

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NRK(CO)
SP(19/01/2018)