

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.26533 of 2018

1. Global Sea Foods,
Rep. By its Authorized Signatory cum Partner
A.Karthick Kumar,
No.14, Singaravelar Nagar,
Kasimedu, Royapuram,
Chennai-600 013.
 2. A. Karthick Kumar,
Partner Global Sea Foods.
 3. G. Magesh
Partner Global Sea Foods. ... Petitioners/Accused
- Vs.

The State rep. By its
The Inspector of Police,
No-1, Royapuram Police Station,
Chennai-600 013.
(Crime No.1140 of 2018) ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to direct the respondent to withdraw their notice of freezing issued to the Kodak Mahindra Bank, George Town Branch, 2nd Lane Beach, Chennai-600 001, the account No.931155517 of the petitioners current account.

For Petitioners : Mr.S.Bommuraj
For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

This petition has been filed challenging the action taken by the respondent police in freezing accounts of the petitioner maintained at Kodak Mahindra Bank, George Town Branch, 2nd Lane Beach, Chennai-600 001.

2. The learned counsel for the petitioners would submit that one Mr.Jebin, gave a complaint before the respondent police alleging that the petitioner had cheated him a sum of Rs.3,00,000/-. On receipt of the complaint, the respondent police registered an FIR in Cr.No.1140 of 2018 against the petitioners for an alleged offence under Sections 406 and 420 of IPC.

3. The petitioners are maintaining their bank accounts before the Kodak Mahindra Bank, George Town Branch, 2nd Lane Beach, Chennai-600 001. The petitioners were informed by the said bank by their letter dated 21.08.2018 that their entire account has been freezed, because of the notice issued by the respondent police. Therefore, the petitioners were prevented from operating their accounts.

4. The learned counsel for the petitioners would submit that the respondent police has not followed the procedure as contemplated under Section 102 of Cr.P.C and has not intimated the fact of freezing accounts, immediately before the concerned Magistrate Court. Due to the freezing of the accounts, the petitioners are not able to carry on with the day- today affairs of the business and the petitioners were not even able to pay the salary to their staff. Therefore, the present petition has been filed challenging the action of the respondent police and for a direction to de-freeze the accounts of the petitioners.

5. The learned Government Advocate (Crl.Side) on instructions would submit that the respondent police has proceeded further to freeze the accounts in the course of investigation. The learned Government Advocate (Crl.Side) would further submit that after the freezing of the accounts, the report has not been immediately submitted to the concerned jurisdictional Magistrate.

6.It is well settled by a series of judgments passed by this Court that if the bank account is freezed without notice to the accused persons, the same has to be scrupulously intimated by submitting a report before the concerned Magistrate Court and the same is mandatory under Section 102 of Cr.P.C else the entire proceedings becomes null and void and will be liable to be quashed. Useful reference can be made to the judgment of this Court reported in the case of R.Sivaraj Vs State Represented by The Inspector of Police, District Crime Branch, Salem, 2008 3 CTC page No.657 and also the judgment of this Court in the case of State of M.P. Vs Shyamsunder Trivedi and others reported in 2014 1 MLJ (Criminal) page No.262.

7. The facts of the case are squarely covered by the above said judgment of this Court. Admittedly, in this case, after the account was frozen, the respondent police has not followed the mandatory requirements envisaged under Section 102 of Cr.P.C. Therefore, the entire action of the respondent police in freezing the bank accounts gets vitiated. Therefore, the same has to be interfered by this Court, in exercise its jurisdiction under Section 482 of Cr.P.C.

8. In the result, the action taken by the respondent police in freezing accounts of the petitioner is hereby set aside and the account is de-frozen and the petitioner is permitted to operate the accounts before Kodak Mahindra Bank, George Town Branch, 2nd Lane Beach, Chennai-600 001.

9. Accordingly, this criminal original petition is allowed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
No-1, Royapuram Police Station,
Chennai-600 013.
2. The Public Prosecutor,
Madras High Court, Madras.

+1cc to Mr.S.Bommuraj, Advocate, S.R.No.78811

Cr1.O.P.No.26533 of 2018

VD(CO)
GSP(05/12/2018)

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