

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.27698 of 2018

Robert Periya Nayagam Prito

... Petitioner

Vs.

1.The District Forest Officer and
Deputy Director,
Sathyamangalam Division,
Tamilnadu.

2.The State by
Forest Range Officer,
Thalamalai Range,
Sathyamangalam Range Office,
Erode District,
(O.R.No.1/2017)

3.The Branch Manager,
State Bank of India,
Suleripalya Branch,
Kollegal,
Karnataka State

4.The Branch Manager,
State Bank of India,
Ramapuram Branch,
1, Main Road,
Ramapuram-571 444
Karnataka State

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to direct the first respondent to defreeze the accounts of the petitioner bearing account No.64205744099 with the third respondent and his wife's account bearing No.64132415476 with the fourth respondent frozen vide letter dated 27.7.2017 by the first respondent in connection with the case in Wild Life Crime No.1/2017 on the file of the second respondent.

For Petitioner : Mr.Sri.I.C.Vasudevan

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor for R2

ORDER

This Criminal Original Petition has been filed seeking for the relief of de-freezing the account of the petitioner and the account maintained by the petitioner's wife.

2.It is seen from the records that the second respondent has registered a case in W.L.O.R.No.1 of 2017 for an offence under Sections 2(16-a, c), 24(a), 26 and Section 9, 27(1), 39 of Wild Life (Protection) Act, 1972, on 03.05.2017. In the course of investigation, the petitioner was also arrested and the incriminating materials were seized.

3.In the course of investigation, it was decided to freeze the bank account of the petitioner and his wife on the ground that the money that is lying in deposit is an ill gotten money received by committing an offence under the Wild Life Protection Act. Therefore, a representation was given by the second respondent to the Branch Manager of State Bank of India, Kollegal Branch, Karnataka State, for freezing the account No.64205744099 of the petitioner. Similarly, another representation was given by the second respondent to the Branch Manager, State Bank of India, Ramapuram for freezing the account No.64132415476 of the petitioner's wife.

4.Based on the representations, both the banks have freezed the accounts. Aggrieved by the same, the present petition has been filed before this Court seeking for de-freezing the accounts.

5.The learned counsel for the petitioner would submit that the second respondent has not followed the mandatory procedure under Section 102 of Cr.P.C. and the fact of freezing the accounts have not been informed before the jurisdictional Court immediately after freezing of the accounts. The learned counsel for the petitioner also brought to the notice of this Court the judgment of this Court in 2008 (3) CTC page 657 and also the recent judgment of this Court in CrI.O.P.No.16628 of 2016 dated 17.09.2018, wherein this Court has consistently held that where a bank account is freezed without notice to the concerned person, a report has to be submitted to the concerned jurisdictional Magistrate immediately after freezing of the accounts and if the same is not done, it will be in violation of the mandatory procedure prescribed under Section 102 of Cr.P.C.

6.Per contra, the learned Additional Public Prosecutor, on instructions, would submit that the entire money in the bank account is an ill gotten money, which was earned by committing an offence under Wild Life Protection Act and therefore, the second respondent had the jurisdiction to freeze the accounts in the course of investigation.

7.This Court has carefully considered the submissions made on either side.

8.It is seen from the records as well as the counter affidavit filed by the second respondent that after the bank accounts were freezed by the second respondent, the second respondent has not filed any report before the jurisdictional Magistrate Court. Therefore, the action of the second respondent is in direct violation of the mandatory requirement under Section 102 of Cr.P.C. The facts of this case are squarely covered by the judgments referred supra.

9. In the result, freezing of accounts in State Bank of India, Kollegal Branch, Karnataka State in Account No.64205744099 of the petitioner and State Bank of India of Ramapuram Branch in Account No.64132415476 of the petitioner's wife, are hereby quashed. The above said accounts are hereby de-frozen. It is made clear that this order will not come in the way of second respondent initiating appropriate proceedings in future, by following the mandatory requirements of law during the course of investigation. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The District Forest Officer and
Deputy Director,
Sathyamangalam Division,
Tamilnadu.

2. The State by
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Thalamalai Range,
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Ramapuram Branch,
1, Main Road,
Ramapuram-571 444
Karnataka State

5. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.Sri.I.C.Vasudevan , Advocate SR.No. 83051

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ASK (19/12/2018)