



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD).No.16628 of 2016

and

CrI.M.P.(MD)No.8190 of 2016

R.Bethaniammal

...Petitioner

Vs.

1.State represented by

The Inspector of Police,
District Crime Branch (ALGSC),
Tirunelveli,
Tirunelveli District.

2.The Manager,

Tamil Nadu Mercantile Bank Ltd.,
Vembar Branch,
Vilathikulam Taluk,
Thoothukudi.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to direct the second respondent to de-freeze the account of the petitioner herein, which has been freezed on the basis of the impugned communication dated 01.08.2016 issued by the first respondent.

For Petitioner: Mr.A.Thiruvadi Kumar

For R1 : Ms.S.Bharathi
Government Advocate

O R D E R

This petition has been filed challenging the proceedings of the first respondent, wherein the Bank account of the petitioner was freezed.

2.The learned counsel for the petitioner would submit that the petitioner, who is aged about 85 years, was having a Bank account in Tamil Nadu Mercantile Bank. The first respondent had registered an F.I.R. in Crime No.20 of 2016 against the petitioner and two others for various offences. The F.I.R. was registered on 12.07.2016. The learned counsel would submit immediately thereafter, the respondent police had freezed the Bank account and



intimated the same to the second respondent Bank by his communication, dated 01.08.2016.

3.The learned counsel for the petitioner would further submit that it is mandatory for the respondent police to inform this to the concerned Judicial Magistrate immediately, as per requirements of Section 102 of Cr.P.C. The learned counsel for the petitioner also brought to the notice of this Court, the earlier judgments of this Court reported in **2013 (3) MWN (Cr.) 40** and **2014 (1) CLT (Cri) 70**.

4.In the said judgments, this Court has categorically held that non compliance with the mandatory requirement under Section 102(3) of Cr.P.C. will vitiate the entire proceedings.

5.Per contra, the learned Government Advocate would submit that the land involved in this case belongs to the Adi Dravidar Community and the offence is serious in nature. A counter affidavit filed by the first respondent has also been placed before this Court. Surprisingly the entire, counter affidavit is silent about the fact as to whether this freezing of account was intimated to the concerned Magistrate as per requirements under Section 102(3) of Cr.P.C.

6.The judgments cited by the learned counsel for the petitioner will squarely applied to the facts of this case. Admittedly, in this case, the respondent police has not intimated the freezing of account to the concerned Jurisdictional Magistrate.

7.Accordingly, this Criminal Original Petition is allowed. The freezing of the Bank account of the petitioner in the Tamil Nadu Mercantile Bank Limited, Vembar Branch, Vilathikulam Taluk, Thoothukudi District is hereby set aside and consequently, it is defrozeed. If the investigating officer in this case, deems it fit to proceed to freeze the Bank account of the petitioner in future, if there is any need, he shall strictly follow the Section 102 of Cr.P.C. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CRL-SIDE)

// True Copy //

Sub Assistant Registrar(CS-III)



To

1. The Inspector of Police,
District Crime Branch (ALGSC),
Tirunelveli,
Tirunelveli District.
2. The Manager,
Tamil Nadu Mercantile Bank Ltd.,
Vembar Branch,
Vilathikulam Taluk,
Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.A.THIRUVADI KUMAR, ADVOCATE IN SR NO.84973

LS

BU/RP/SAR-III:10.10.2018 : 3P/5C

Cr1.O.P. (MD) .No.16628 of 2016
17.09.2018