

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.No.15940 of 2016

and

CRL.M.P.No.8515 of 2016

C.Jayachitra

...Petitioner/Accused

Vs.

1. State: The Inspector of Police,
Rep. by CCB II/EDF I
Vepery, Chennai.

2. The Manager,
ICICI Bank,
Besant Nagar Branch,
Chennai - 600 0090.

3. The Manager,
Indian Overseas Bank,
No.150, Konnur High Road,
Ayanavaram - 600 023.

.....Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the respondents to defreeze both the bank accounts and the locker account of i) ICICI Bank, Besant Nagar Branch, Chennai, S/B.Account No.603301508036 and Locker No. 790, and (ii) Indian Overseas Bank, Ayanavaram Branch S.B.Account No.000901000025923 in pursuance of FIR No.417 of 2015.

For Petitioner : Mr.V.Logeswaran

For Respondents : Mr.C.Raghavan

Government Advocate for R1

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ORDER

This petition has been filed for a direction to the respondents to defreeze the bank account of the petitioner.

2. The respondent police registered an FIR in Crime No.417 of 2015 against the petitioner for the offences under Sections 408 and 465 of IPC. This FIR was registered on the ground that

the petitioner has misappropriated a sum of Rs.27,16,788/- from her employer. During the course of the investigation, two of the bank accounts of the petitioner were freezed. One bank account was ICICI Bank, Besant Nagar Branch and the other bank account was Indian Overseas Bank, Ayanavaram Branch. Aggrieved by the same, the present criminal original petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that the respondent police went wrong in freezing the bank accounts of the petitioner and there was no requirement to freeze the bank account, on the facts of this case. The learned counsel further submitted that the respondent police did not follow the mandatory procedure under Section 102 of Cr.P.C. and the freezing of the bank accounts was not intimated to the Magistrate Court and to the petitioner and therefore the entire freezing of bank account is illegal.

4. The learned Government Advocate appearing on behalf of the respondent police submitted that the bank accounts were freezed on 28.01.2016 and the same has been informed to the 11th Metropolitan Magistrate, Saidapet on the same day. Therefore, the learned counsel submitted that there was no violation of the mandatory provision under Section 102 of Cr.P.C. The learned counsel further submitted that the respondent police have already taken inventory from the locker at Indian Overseas Bank, Ayanavaram Branch. In view of the pendency of this petition, the respondent police is not in a position to take inventory of the locker in ICICI Bank, Besant Nagar Branch. The learned counsel further submitted that the investigation has been completed and if the inventory is permitted to be taken from ICICI Bank, Besant Nagar Branch, the final report can be filed before the concerned jurisdictional Court.

5. This Court has carefully considered the submissions made on either side and also the materials available on record.

6. This Court can interfere with the freezing of bank accounts only if the mandatory procedure contemplated under Section 102 of Cr.P.C. is violated. In this case, the Magistrate Court has been informed about the freezing of the bank accounts on the very same day.

7. The respondent police have already taken inventory from the locker at Indian Overseas Bank, Ayanavaram Branch. The respondent police can proceed further to take the inventory from the ICICI Bank, Besant Nagar Branch, in the presence of the petitioner. On completion of this process, the final report can be filed before the concerned Court.

8. The petitioner is given liberty to file a petition before the Court below seeking for defreezing the bank accounts. The Court below will be in a position to properly appreciate the need to continue with the freezing of the bank accounts, based on the materials collected by the prosecution in the course of investigation. This exercise cannot be done by this Court under Section 482 of Cr.P.C. The Court below can also take into account the fact as to whether the freezing of the bank account has to continue any further.

9. The petitioner shall file an application before the Court below seeking for defreezing the bank accounts and the Court below shall pass final orders in the said petition within a period of four weeks from the date of filing of the petition. In the mean time, the respondent police is directed to complete the process of taking inventory from the locker at ICICI Bank, Besant Nagar Branch. The respondent police shall also file the final report immediately thereafter.

10. This Criminal original petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Inspector of Police,
Rep. by CCB II/EDF I
Vepery, Chennai.

2. The XI Metropolitan Magistrate,
Saidapet, Chennai.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Logeswaran, Advocate, S.R.No. 67391

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VBA(CO)
GN(09/08/2019)