

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.14824 of 2019
and
Crl.M.P.No.7253 of 2019

Mrs.B.Kavitha

... Petitioner

Vs.

1. The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai.
(CSR No.449 of 2019).

2. Axis Bank,
rep.by its Manager,
Anna Nagar East Branch,
No.87, J Block, 3rd Avenue,
Anna Nagar East,
Chennai 600 102.

3. State Bank of India,
Rep. by its Chief Manager,
Thirumangalam Branch,
Chennai - 600 101

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to forthwith defreeze the Petitioner's Bank Accounts bearing Nos.016010100136334 and 10408534425 maintained with the 2nd and 3rd respondents respectively.

For Petitioner : Mr.Arun Anbumani
for Mr.P.Rajkumar Pandian

For Respondents : M.Mohamed Riyaz, APP

O R D E R

This petition has been filed seeking for a direction to the 1st respondent to defreeze the Petitioner's Bank Accounts maintained in the 2nd and 3rd respondent Banks.

2. It is seen from records that based on a Complaint given before the 1st respondent, the same was taken on file in CSR No. K4-449/2019 dated 31.05.2019. Thereafter, even without registration of an FIR, the 1st respondent has proceeded to give instructions to the 2nd and 3rd respondent Banks to freeze the bank accounts of the petitioner. The 2nd and 3rd respondents froze bank accounts of the petitioner and informed the same to the petitioner by their letters dated 03.06.2019 and 10.06.2019 respectively. Aggrieved by the same, the present Criminal Original Petition has been filed seeking for defreezing the bank accounts on the ground that the entire action taken by the 1st respondent is illegal and opposed to the provisions of the Code of Criminal Procedure.

3. The learned counsel for the petitioner submitted that the petitioner was not even aware as to who has given the complaint and all of a sudden she was informed by the 2nd and 3rd respondent banks that her bank accounts has been frozen. The learned counsel further submitted that the bank accounts has been frozen without there being any FIR registered, and therefore, the same is illegal and requires the interference of this Court. The learned counsel further submitted that the petitioner had taken loan and she is repaying back the loan only from the said bank accounts and therefore the petitioner has been put to untold hardship by the illegal action of the 1st respondent.

4. The learned Additional Public Prosecutor on instructions submitted that an FIR has been registered by the 1st respondent yesterday (10.06.2019).

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

6. It is an unfortunate case where the 1st respondent has completely misused his power. Freezing of bank account has to be undertaken only in rare cases and that to in strict compliance with the mandatory procedure under Section 102 of the Cr.P.C. Time and again this Court has held that if a bank account is frozen without notice to the accused persons and without submitting a report before the Magistrate immediately, the same amounts to violation of the mandatory procedure prescribed u/s 102 of Cr.P.C.

7. In this case even without registering an FIR, the 1st respondent has proceeded to freeze the bank accounts of the petitioner. This shows the hastiness with which the 1st respondent has acted in this case and in the considered view of this Court, he has misused his power and has shown literally a favour for the complainant by illegally directing the 2nd and

3rd respondent banks to freeze the bank accounts of the petitioner. The action of the 1st respondent tantamount to the infringement with the fundamental right of the petitioner under Article 21 of the Constitution of India. The petitioner who was maintaining bank account in the 2nd and 3rd respondent banks and was also repaying the loan amount through the said bank accounts, had the shock of her life when she was informed that her bank accounts has been frozen pursuant the letter given by the 1st respondent.

8. This Court has no hesitation to direct defreezing of the bank accounts. However, before doing so, this Court deems it fit to impose cost on the 1st respondent for his illegal action and in order to ensure that this mistake is not committed by any of the Investigating Officers in future.

In the result, this Criminal Original Petition is allowed. The bank account of the petitioner bearing Nos.016010100136334 and 10408534425 maintained with the 2nd and 3rd respondents respectively is defreezed forthwith. The 1st respondent is directed to pay a cost of Rs.1000/- [Rupees One thousand only] to the Chief Justice Relief Fund, within a period of one week from the date of receipt of a copy of the order. Consequently, the connected miscellaneous petition is closed.

Post this matter for reporting compliance on 18.06.2019.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai.
(CSR No.449 of 2019).

2. The Manager,
Axis Bank,
Anna Nagar East Branch,
No.87, J Block, 3rd Avenue,
Anna Nagar East,
Chennai 600 102.

3. The Chief Manager,
State Bank of India,
Thirumangalam Branch,
Chennai - 600 101

4. The Public Prosecutor,
High Court, Madras.

copy to: 1) The Section Officer,
Criminal Section, High Court, Madras - 104.

2) The Sub Assistant Registrar,
Accounts Section, High Court, Madras - 104

+2 ccs to Mr.P.Rajkumar, Advocate, S.R.No.46740

Crl.O.P.No.14824 of 2019

PVS(CO)
SSM(11/06/2019)



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