IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.16100 of 2019

S. Mohankumar ... Petitioner

-Vs-

1. State by Inspector of Police,
   Central Crime Branch Team 0 32
   Chit fund and Kanduvatti
   Egmore, Chennai 600 008
   (Crime No.164 of 2017)

2. The Manager,
   HDFC Bank Limited,
   No.759, ITC Centre,
   Anna Salai, Opp. TVs,
   Chennai - 600 002. ... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to direct the 1^{st} respondent to unblock the Current Account No. 50200002341822 in the 2^{nd} respondent bank based on the letter from the Respondent vide their letter with reference no. Cr. No. 164 of 2017 dated 01.09.2017 pending on the file of the Court of the CCB & CB CID, Chennai- 600 008 and permit the petitioner to operate the above said account.

For Petitioner : Mr. Hasan Mohammed Jinnah
For Respondents : Mr.M.Mohamed Riyaz
Additional Public prosecutor

ORDER

This petition has been filed challenging the freezing of the Account of the petitioner by the respondent/police in Crime No.164 of 2017 in the course of investigation. The complaint of the defacto complainant is that the defacto complainant had borrowed certain amount from the petitioner and the petitioner is said to have demanded exorbitant interest and threatened the defacto complainant. The further allegation made in the complaint is that the defacto complaint has already repaid the entire amount and the petitioner is demanding exorbitant interest and is threatening the defacto complainant to pay a sum of Rs.45,00,000/- (Rupees forty five Lakhs only) towards interest for a principal amount of Rs.40,00,000/- (Rupees Forty lakhs only)

2. The petitioner was arrested and remanded to judicial custody on 07.06.2017. Thereafter he was also detained under Act 14 of 1982. In the course of investigation the respondent police freezed the Bank Account of the petitioner maintained at the HDFC bank Limited , Anna Salai, Chennai. The investigation is pending till now.

3. The learned counsel for the petitioner submitted that the facts of the present case do not warrant freezing of the Account of the petitioner. The learned counsel further submitted that the account was freezed on 18.08.2017 and the same was not forthwith informed to the concerned Jurisdictional Magistrate, therefore freeezing of the account itself has become illegal. The learned counsel in order to substantiate his arguments relied upon the Judgments of this Court in Crl.O.P.No. 800 of 2014, dated 05.12.2004 [S. Ganapathi Vs State represented by Sub Inspector of Police and others] and Crl.O.P.Nos.13103,13104 & 13105 of 2013, dated 30.08.2013 [Tmt. T. Subbulakshmi, T. Yamini Vs. The commissioner of Police, Egmore and others].

4. The learned Additional Public prosecutor on instructions submitted that the bank account was freezed on 18.08.2017 and it was informed to the learned Metropolitan Magistrate only on 23.08.2017. The learned counsel submitted that the facts of the case warranted freezing of the account by the respondent/ police and therefore there is no ground to interfere with the same.

5. This Court has carefully considered the submissions made on either sid3 and perused the materials available on record.

6. This Court does not want to go into the issue as to whether freezing of Account was warranted in the facts and circumstances of the present case, at this stage. This Court would rather test the legality of the freezing of accounts on the time limit within which it was informed to the concerned Magistrate Court. The freezing of the bank account had taken place on 18.08.2017 and it was informed to the Special Court for CCB and CBCID, Egmore, Chennai only on 23.08.2017. i.e after nearly 5 days.

7. The Judgments relied upon by the learned counsel for the petitioner categorically states that Section 102(3) of Cr.P.C requires the reporting of seizure of the property (which also includes freezing of accounts) to the concerned Magistrate forthwith, which is mandatory. In this case it has been informed to the Magistrate only after 5 days and there is absolutely no explanation why it took 5 days for the respondent police to report the freezing of the bank account. The provision requires

the information to be informed to the Magistrate Court forthwith and the delay of 5 days is clearly in violation of the mandatory requirements under section 102(3) of Cr.P.C. The above Judgments will squarely apply to the facts of the present case.

8. In view of the above, the freezing of the bank account of the petitioner maintained before the 2nd respondent bank, is declared to be illegal and the bank account of the petitioner is de-freezed. The petitioner shall be entitled to operate his Bank Account before the 2nd respondent.

With the above observations this Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police, Central Crime Branch Team 0 32
   Chit fund and Kanduvatti Egmore, Chennai 600 008

2. The Manager, HDFC Bank Limited,
   No.759, ITC Centre, Anna Salai, Opp. TVs,
   Chennai - 600 002.

3. The Public Prosecutor, High Court, Madras.

+1 cc to M/s.A.Damodaran,Advocate Sr.No.56612

Crl.O.P.No.16100 of 2019

AKM/ 28.08.19/ 3P-5C /