IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.18808 of 2019

S.Mohankumar ... Petitioner/Accused

vs.

State by:
The Inspector of Police,
Central Crime Branch, Team-32,
Chit Fund & Kanduvatti,
Vepery, Chennai - 600 007.
(Crime No.164 of 2017) ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.4192 of 2018 by its order dated 29.08.2018 and to direct the respondent to defreeze the operation of the petitioner's savings Bank Account Nos. viz.,

S.No	Name of the Bank & Branch	S.B.Account No.
1.	Axis Bank, Purasawalkam Branch Chennai - 600 007 (IFSC Code:UTIB0000189)	910010019015852
2.	HDFC Bank, Kilpauk Branch Chennai - 600 010 (IFSC Code:HDFC0000124)	50200006801238

in Crime No.164 of 2017 pending on the file of the respondent and investigate.

For Petitioner : Mr.K.R.Ramesh Kumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R1

O R D E R

This petition has been filed challenging the order passed by the Court below dismissing the petition filed by the petitioner for de-freezing the bank accounts of the petitioner.

2. 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.

3. The petitioner was arrested and remanded to Judicial custody on 21.06.2017 for the alleged offences under Sections 406, 420, 506(1) of IPC and Section 3 and 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 in Crime No.164 of 2017. In the course of investigation the respondent police freezed the Bank Accounts of the petitioner maintained at the Axis Bank, Purasawalkam Branch, Chennai - 600 007 and HDFC Bank, Kilpauk Branch, Chennai - 600 010.

4. The learned counsel for the petitioner submitted that the facts of the present case do not warrant freezing of the Accounts of the petitioner. The learned counsel further submitted that the accounts were freezed on 18.08.2017 and the same was not forthwith informed to the concerned Jurisdictional Magistrate and therefore freezing of the accounts 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].

5. The learned Additional Public prosecutor on instructions submitted that the bank accounts were 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 accounts by the respondent/police and therefore there is no ground to interfere with the order passed by the Court below.

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

7. This Court does not want to go into the issue as to whether freezing of accounts 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 accounts 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.

8. 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 as to why it took 5 days for the respondent police to report the freezing of the bank accounts. 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.

9. In view of the above, the freezing of the bank accounts of the petitioner is declared to be illegal. Therefore, the order passed by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.4192 of 2018, dated 29.08.2018 is hereby set-aside and the bank accounts maintained in the Axis Bank, Purasawalkam Branch, Chennai - 600 007 and HDFC Bank, Kilpauk Branch, Chennai - 600 010 are de-freezed.

10. This Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

ssr
To

1. The CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.

2. The Inspector of Police,
Central Crime Branch, Team-32,
Chit Fund & Kanduvatti,
Vepery, Chennai - 600 007.

3. The Public Prosecutor,
High Court of Madras, Madras.

+1cc to Mr.K.R.Ramesh Kumar, Advocate SR.No.61537

Crl.OP No.18808 of 2019

PA(CO)
GMY(22/08/2019)