

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.25268 of 2019

and

W.M.P.Nos.24842 & 24844 of 2019

Dhaval N Ganatra

...Petitioner

Vs

1.State by,

Inspector of Police,
Anupparpalayam Police Station,
Thirupur City.

2.Kotak Mahindra Bank

Ground Floor No.1,
Park Avenue, Avinashi Road,
Kumar Nagar, Tirupur-641 603.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other order in the nature of a writ calling for the records pertaining to impugned notice dated 14.06.2014 issued to second respondent on the file of the first respondent by quashing the same and thereby directing the second respondent to defreeze the S.B.A/C.No.04920120010028 Kotak Mahindra Bank, Tirupur stands in the name of the petitioner.

For Petitioner : Mr.P.Sidharthan

For R1 : Mr.C.Iyyapparaj

Additional Public Prosecutor

O R D E R

Based on the complaint made by one Subhash Chandra B Kotecha, the second respondent bank had frozen the S.B.A/C.No.04920120010028, Kotak Mahindra Bank, which is standing in the name of the petitioner and his wife.

2 The learned counsel for the petitioner would submit that the second respondent herein was not justified in freezing the petitioner's account, since it is in violation of the provisions of Section 102 Cr.P.C.

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3 The learned Additional Public Prosecutor has filed a status report, which reveals that the freezing of the petitioner's joint account was made only on the basis of the complaint given by the said Subhash Chandra B Kotecha. Pursuant to the complaint, there is no registration of First Information Report. It is also seen that there are no attachment orders passed by any Court of law. A mere complaint has been acted upon by freezing the petitioner's account maintained in the second respondent bank without proper enquiry. If at all the complainant is of the view that there are dues to be recovered from the petitioner, the appropriate remedy would be to approach the Courts of law seeking for recovery and a shortcut method by way of a complaint to freeze the accounts, is not permissible.

4. In the absence of any First Information Report registered against the petitioner in connection with the amounts claimed by the aforesaid Subhash Chandra B Kotecha, the freezing of the account itself is improper.

5 In the light of the above observations, this Writ Petition stands disposed of and the impugned order dated 14.06.2014 issued to the second respondent by the first respondent is hereby quashed. Consequently, the second respondent is directed to de-freeze the petitioner's joint Savings Account in S.B.A/C.No.04920120010028, Kotak Mahindra Bank forthwith, on production of a copy of this order.

6 With the above direction, this Writ Petition stands disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

sbn/vsn

To

1. Inspector of Police,
Anupparpalayam Police Station,
Thirupur City.

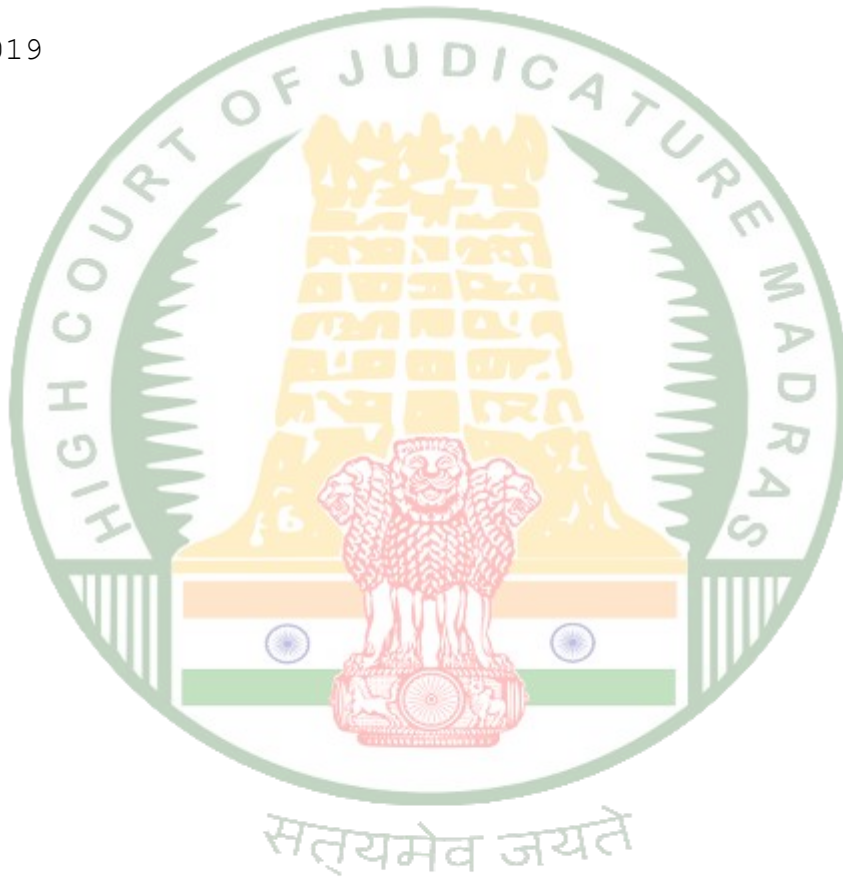
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2. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.P.Sidharthan, Advocate SR.No.85942 (20/11/2019)

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