IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.No.2072 of 2020

Yasmeen ... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Ooty, Nilgiris District,
Crime No.3 of 2016.

2.The Superintendent of Police,
Vigilance and Anti Corruption,
City Unit II/AC/2018,
Chennai.

3.A.Sardar ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent to defreeze the SDV locker and SB Account No.152001001466625 at City Union Bank, Thoraipakkam Branch, Chennai and also SB Account No.0952101042000 Canara Bank, Sholinganallur Branch, Chennai in Crime No.3 of 2016 on the file of the 1st respondent.

For Petitioner : M/s.B.Mahendra Naidu

For R1 & R2 : M/s.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the 1st respondent to defreeze the SDV locker and SB Account No.152001001466625 at City Union Bank, Thoraipakkam Branch, Chennai and also SB Account No.0952101042000 Canara Bank, Sholinganallur Branch, Chennai in Crime No.3 of 2016.

2.The 3rd respondent, who is the husband of the petitioner, is an accused in Crime No.3 of 2016 for the offence under Section 7 of the Prevention of Corruption Act, 1988. During the investigation in Crime No.3 of 2016 on 23.11.2017, the 1st respondent has searched the house of the petitioner and seized the SDV locker, Savings Bank Account No.152001001466625 at City Union Bank, Thoraipakkam Branch, Chennai and Saving Bank Account No.0925101042000 at Canara Bank, Sholinganallur Branch, Chennai. Hence, the petitioner has approached this Court to defreeze the above said accounts by filing this Criminal Original Petition.

3.M/s.Mahendra Naidu, learned counsel appearing for the petitioner would submit that the petitioner is not an accused in the above said crime and without giving any notice, the 1st respondent was seized the properties of the petitioner under Section 102 of Cr.P.C. Hence, he prayed to issue a direction to the 1st respondent to defreeze the account of the petitioner.

4.Per Contra, the learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner and the 3rd respondent are husband and wife. He would further submit that the 3rd respondent was involved in two cases in Crime No.3 of 2016 for the offence under Section 7 of the Prevention of Corruption Act, 1988 and in Crime No.11/AC/2018 for the offence under Sections 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988. He would further submit that Section 102 defines the powers of a police officer to seize the property specially where the allegation of commission of an offence made. The police office may seize any property which may be alleged or suspected to have been stolen or which may be found under the circumstances which create suspicion of commission of any offence. If there is no allegation or where there is no suspicion of commission of theft or where the circumstances do not create any suspicion for commission of offence, there is no occasion in such a case for a police office to seize the property. Section 102 of Cr.P.C reads as follows:-

> "(1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the Commission of any offence
>
> (2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer
>
> (3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be, conveniently transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and

when required and to give effect to the further orders of the Court as to the disposal of the same."

Hence, the police office has the power to seize any property which may be found under circumstances creating suspicion of the commission of any offence.

5.It is seen that the 3rd respondent was involved in two cases one is in Crime No.3 of 2016 for the offence under Section 7 of the Prevention of Corruption Act, 1988 and another is in Crime No.11/AC/2018 for the offence under Sections 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988. While the investigation is pending if this Court is issued a direction to defreeze the account of the petitioner, it would affect the entire process of the investigation. Accordingly, the request made by the petitioner is rejected. After completion of the investigation, the petitioner is at liberty to file an appropriate petition before the concerned Court to defreeze the account in the manner known to law.

6.In view of the above, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vv2

To

1.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Ooty, Nilgiris District,

2.The Superintendent of Police,
Vigilance and Anti Corruption,
City Unit II/AC/2018,
Chennai.

3.The Public Prosecutor,
High Court of Madras.

+2cc to Mr.B.Mahendra Naidu, Advocate SR.No.7446

CRL.O.P.No.2072 of 2020

RSI(CO)
GMY(20/02/2020)