THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION Nos.534 AND 549 OF 2020

COMMON ORDER:

Since, the issue involved in these two Writ Petitions being common, the same are being disposed of by this common order.

2. These Writ Petitions are filed under Article 226 of the Constitution of India being aggrieved by the action of the 1st respondent in issuing the impugned proceedings dated 03.01.2020, whereby the 2nd respondent was called upon to freeze the bank account of the petitioners as mentioned therein, maintained with the 2nd respondent Bank, as being illegal, arbitrary, unconstitutional and without jurisdiction.

3. Heard Sri S. Niranjan Reddy, learned Senior Counsel representing Ms. G. Sri Ranga Pujita, learned Counsel for the petitioners and Sri V. Ravikiran Rao, learned Counsel appearing for the 1st respondent.

4. Learned Senior Counsel for the petitioner would submit that the petitioner in W.P. No.534 of 2020 is a practising Advocate and receives the remuneration for rendering professional services into the account maintained with the 2nd respondent bank and freezing of the same would effect the petitioner carrying on his professional activities and thus it is violative of Article 21 of the Constitution of India. Insofar as the petitioner in W.P. No.549 of 2020 is concerned, learned Senior Counsel would submit that the petitioner is in receipt of amounts towards charges for providing supervising house keeping services and freezing of her bank

account maintained with the 2nd respondent would cripple her day today living, as the accounts are all primary accounts of the petitioner and attaching the same is in clear violation of Article 21 of the Constitution of India. Further, the learned Senior Counsel would also submit that the impugned notice by which the accounts of the petitioner are attached does not set out any grounds for freezing of the accounts of the petitioners, as the petitioners are not the accused in the case, which is being investigated into by the 1st respondent and the 1st respondent authorities has resorted to the extreme action of attaching the accounts of the petitioners merely on suspicion, which cannot be sustained.

5. Learned Senior Counsel would also further submit that the amounts which the petitioners received into the accounts under freeze have all been accounted for and the petitioners have filed income tax returns disclosing the receipt of the said income and thus, nothing wrong can be found against the petitioners nor it can be stated that the said income received by the petitioners is ill-gotten money or connected with any crime which is being investigated into by the 1st respondent authority and sought for setting aside the impugned proceeding dated 03.01.2020.

6. Opposing the said submission, Sri V. Ravikiran Rao, learned Counsel representing the 1st respondent would submit that the petitioner in W.P. No.534 of 2020 and W.P. No.549 of 2020 are none other than the son and wife respectively, of one Sri Krupa Sagar Reddy against whom Crime No.13/RCO-CIU-ACB-2019 is registered under the Prevention of Corruption Act, 1988 wherein

the said person is arrayed as accused No.2 and the said case is under investigation.

7. Learned Counsel would further submit that the case is under investigation relates to officials of Director, IMS and others of resorting to corrupt, illegal means causing pecuniary advantage for themselves and loss to the Government exchequer wherein it was found that the Pharmacy Company distributors colluded with the Director, IMS,TS, Hyderabad, and caused loss to the Government exchequer of over Rs.200 crores. Learned Counsel for the respondent would submit that the 1st respondent authority in the course of investigating into Crime No.13 of 2019 relating to the DIMS scam have found that the accused (A-2) in the said Crime No.13 of 2019 involved in supply of lab kits through Shell Firm belonging to A-2, which in turn procured the same from another partner company wherein A-2 is a partner and since from the said company, the amounts are paid into the petitioners account, the 1st respondent had sought for freezing of the accounts of the petitioners for the purposes of investigation and flow of funds from and into various accounts.

8. Learned Counsel for the respondent would also submit that the petitioners were also examined by the 1st respondent authority and their statements were recorded on 13.12.2019 and nowhere in the said statement recorded by the 1st respondent authority, the petitioners are stated to have been rendering services to the company from which the petitioners are in receipt of monies. Learned Counsel by drawing attention of this Court to the statement of the petitioner in W.P. No.549 of 2020 would submit

that the petitioner has described herself as a house wife, when her statement was recorded by the 1st respondent authority, which would go to show that the petitioner was, in fact, not rendering any services as being claimed and the amounts of the accused (A-2) in Crime No.13 of 2019 were only routed through the accounts of the petitioner by showing the payment made to his wife as for availing her services. Further, the learned Counsel would submit that the impugned proceedings were issued on 03.01.2019 whereby the accounts of the petitioner maintained with the 2nd respondent bank were frozen and the petitioners have approached this Court immediately within three days thereafter would go to show the endeavour of the petitioner to prevent the authorities from examining into the financial transactions involving A-2 in Crime No.13 of 2019 who is the father and husband of the petitioners in the present Writ Petitions respectively.

9. Learned Counsel by drawing attention of this Court to the balance amounts remaining in the bank accounts of the petitioners, which in a sum of Rs.80,000/- and Rs.1,50,000/- respectively, as on date would submit that the alleged claim of the petitioners that freezing of the account would cripple the life of the petitioners is without any basis, since the petitioners have not disclosed as to what difficulties they would face by not being permitted to operate the said bank accounts. Learned Counsel would submit that since accused (A-2) in Crime No.13 of 2019 being at large, the authorities have issued the impugned notices calling upon the 2nd respondent to furnish various information, relating to A-2 in Crime No.13 of 2019 and that of the petitioners till date.

10. Learned Counsel for the respondents submits that the 2nd respondent bank is yet to furnish the information as sought for by the 1st respondent authority and submits that no interference is warranted at this stage and seeks for dismissal of the Writ Petition.

11. Having given due consideration to the submissions made by the Counsel for the parties, and perusing the material on record, the issue that falls for consideration in these writ petitions is as to (1) whether the action of the 1st respondent in freezing the bank account of the petitioners is valid and justified; and (2) whether the impugned proceeding of the 1st respondent dated 03.01.2020 is liable to be set aside.

12. It is not in dispute that the 1st respondent authority had registered Crime No.13 of 2019 in relation to the Insurance Medical Services Scam against the Director and other officials, wherein, it is alleged that the authorities by causing loss to the State exchequer, shown to have made purchases of various medical equipments at higher price by accepting illegal gratification for their personal benefit. The 1st respondent authority having registered various cases against the father and husband of the petitioners respectively in the present Writ Petitions being arrayed as accused No.2 in Crime No.13 of 2019, it cannot be said that the authorities cannot look into the bankers books. Section 18 of the Prevention of Corruption Act, 1988 empowers the police officer to inspect any bankers books not only that of the person suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person. The Hon'ble Supreme Court in the case of ***State of Maharashtra V.***

Tapas D Neogy[1], while dealing with the power of the police officer investigating into an offence to issue orders in respect of bank accounts in exercise of power under Section 102 of Cr.P.C. observed –

> *" We are, therefore, persuaded to take the view that the bank account of the accused or any of his relations is 'property' within the meaning of Section 102 of Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into."*

13. Admittedly, the petitioners are in receipt of amounts from a company wherein A-2 in Crime No.13 of 2019 is a partner, the authorities are well justified in looking into the bank account of the petitioner and it cannot be said that such action on the part of the 1st respondent authority is without authority of law merely because the petitioners are not accused in the crime.

14. Coming to the other submission of the learned Senior Counsel for the petitioners that freezing of the bank account of the petitioners would cripple the personal life of the petitioners and affecting the freedom enshrined under Article 21 of the Constitution of India, it is to be seen that though the said submission made by the learned Counsel is attractive at the first blush, but a scrutiny of the bank statement of one year furnished along with the Writ Petition would indicate the contra. The bank statement relating to the petitioner in W.P. No.534 of 2020 mentioned at serial No.2 of the impugned proceeding would

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[1] (1999) 7 SCC 685

indicate that during the period of one year from January, 2019 to 31.11.2019 though an amount of Rs.17,09,540/- has been deposited, an amount of Rs.16,30,836/- has been shown as withdrawals leaving a balance of Rs.78,704/- of which the opening balance as on 1st January, 2019 was in a sum of Rs.80,795/-. Further, the claim of the petitioner in W.P. No.534 of 2020 that the said account mentioned at serial No.2 is related to his professional receipts and freezing the same would cripple the petitioner carrying on his professional activity also cannot be accepted for the simple reason that a cursory look into the details of the said bank account itself would indicate that major part of the monies that have come into the account of the petitioner viz., "*credits*" are only from one source i.e., from a company where the petitioner's father is a partner. Though, it is claimed that the petitioner was in receipt of the said sums from the company for rendering professional services, it is not shown to this Court, of the petitioner receiving monies into the said account for rendering professional services to other persons or companies. On the other hand, the entries in the bank statement would indicate the other credits are interest on F.Ds, F.D. closure proceeds and receipts from mutual funds.

15. Similarly, in so far as the petitioner in W.P. No.549 of 2020 is concerned, the one year bank statement in respect of bank account mentioned at serial No.1 of the impugned proceeding issued to the 2nd respondent bank would indicate that the petitioner had transactions to an extent of Rs.6,99,202/- as deposits, out of which the petitioner has withdrawn an amount of Rs.6,75,019/- during the said period of one year, of which only ten

withdrawals are through self-cheques, to an extent of Rs.1,96,000/- which is stated to be made personal expenses.

16. Thus, the claim of the petitioners that on account of freezing of the bank accounts by the impugned proceedings issued by the 1st respondent would effect the petitioner carrying on professional services/crippling the petitioners life, on the face of it cannot be accepted, for this Court to interfere in the matter in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. Further, as rightly pointed out by the learned Counsel for the 1st respondent, the authorities upon getting the information from the 2nd respondent bank would take a decision as to whether the freezing of the account is to be continued or not and no prejudice would be caused to the petitioners in the meantime necessitating the petitioners to approach this Court by way of the present Writ Petition.

17. In so far as the reliance placed by the learned Counsel for the petitioner on the judgment of the Madras High Court in ***B. Ranganathan v. State***[2], it is to be seen that the said case dealt with disproportionate wealth in connection with which the authorities have resorted to freezing of the accounts. The Hon'ble High Court while examining whether such freezing of account would help in progress of the investigation on facts of the case had come to a conclusion that no purpose is going to be served by freezing the account on the date when impugned proceeding therein were issued as the entries that were made in the bank account could not be erased and the authorities can proceed with the investigation based on the entries already effected in the past.

[2] 2003 Crl.L.J 2779

The said case is of no or little assistance to the petitioner, since the present case relates to involvement of the accused (A-2) in Crime No.13 of 2019 in causing loss to the State exchequer by means of corrupt practices and since the matter being under investigation where the authorities are investigating into the flow of monies from the accounts of the companies/firms operated by the accused into other accounts, since it is claimed that the investigation into the entire DMS scam is at nascent stage, as the crime No. 13 of 2019 involving the father and husband of the petitioners respectively, itself being registered only on 30.12.2019, it cannot be said that freezing of the accounts, thereby preventing any further transactions from those accounts would have no bearing to the investigation.

18. Further, it is also to be seen that since a crime has already been registered and pending investigation, nothing prevented the parties i.e., the petitioners herein to approach the concerned Court i.e., Principal Sessions Judge for SPE & ACB Cases, Hyderabad which is ceased of the matter by filing necessary application for the relief that is being sought for in the present Writ Petitions.

19. In the light of the above, the Writ Petitions are without merit and are dismissed. No order as to costs.

20. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE T.VINOD KUMAR

Date: 29.01.2020.
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