

03 20.01.2021
Sc

W.P.A. 18614 OF 2019

(Through Video Conference)

Hriday Narayan Singh

Vs.

State Bank of India & Ors.

Mr. Biswaroop Bhattacharyya
Ms. Reshmi Ghosh
Mr. Dipayan Kundu.

... For the Petitioner

Mr. Amitesh Banerjee
Mr. Tarak Karan.

....For the Respondents/
State.

Mr. Meghnad Dutta
Mr. S. Rudra.

....For the
Respondent No. 4.

Mr. Saptanshu Basu
Mr. Ayan Banerjee
Ms. Debashree Dhamali.

.. For the Respondents
No. 5 & 6.

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order directing the respondent no. 2 (the Bank) to freeze the current account of the petitioner. The instruction for freezing of the account has been issued by the police authorities pursuant to a complaint bearing P.S. Case No. 29 dated 09.03.19 under Sections 406/420/120B of the Indian Penal Code.

2. Mr. Amitesh Banerjee, learned counsel appearing on behalf of the State has submitted that the attachments

have been made under Section 102 of the Code of Criminal Procedure, 1973 (hereafter the Cr.P.C.). He further has placed reliance on a judgment of the Supreme Court in the case of *Sunderbhai Ambalal Desai –vs.- State of Gujarat, reported in 2002 (10) SCC 283* to buttress the argument that the correct procedure for seeking release of any goods seized by the police is under Sections 451 and 457 of the Cr.P.C. According to him, an application is required to be made by the petitioner before the Magistrate concerned and the Magistrate has the power to consider such prayer and pass necessary orders under Section 451 of the Cr.P.C. Mr. Banerjee has further relied upon the intimation sent by the police authorities to the learned Magistrate with regard to the freezing of the account.

3. I have heard counsel appearing on behalf of the petitioner and also Mr. Saptanshu Basu, learned counsel appearing on behalf of the respondent nos. 5 and 6. Mr. Meghnad Dutta, learned counsel appearing on behalf of the respondent no. 4 (the complainant in the criminal case) has also supported the submissions made by Mr. Amitesh Banerjee with regard to maintainability of the writ petition on the ground that there is a statutory efficacious alternative remedy.

4. I have heard counsel appearing on behalf of the parties and perused the materials on record. Upon a

perusal of the judgment cited by the counsel appearing on behalf of the State it is clear that there exists an alternative statutory remedy and the petitioner is at liberty to proceed to such forum in accordance with law.

5. The Court may also add that other remedies under Section 482 of the Cr.P.C. are present for quashing of orders passed by the Magistrate and the petitioner is at liberty to do so.

6. I am disinclined to interfere in criminal proceedings where I do not find any palpably illegal and arbitrary action on behalf of the police authorities.

7. I make it clear that the observations made by this Court while passing this order are not to be taken into consideration in any further proceeding that may be undertaken by the petitioner before the appropriate forum. Furthermore, I direct that in the event any application is made under Section 451 of the Cr.P.C., the jurisdictional Magistrate is directed to expeditiously dispose of such an application.

8. In light of the above, the writ petition is disposed of. There shall be no order as to costs.

9. Since no affidavit-in-opposition is called for, the allegations made in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)