IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.Nos.15894, 15898, 15900 and 16537 of 2020

1. P. Jayapal ... Petitioner in Crl.OP.15894/2020

2. J. Yamuna, W/o.P.Jayapal ... Petitioners 1 and 2 in Crl.OP.15898, 15900 & 16537/2020

Vs.

1. The State, rep. By the Deputy Superintendent of Police, CS CID-Chennai, Tiruppur Police Station, Tiruppur District. (Crime No.129 of 2020)
2. The Manager, Bank of Baroda, Uthukuli Branch, Hospital Road, Uthukuli, Erode District, Pin Code; 638 7512 ... Respondents

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Prayer in Crl.O.P.No.15894 of 2020: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioner bearing Number: 05500100002335 maintained with the 2nd respondent bank.

Prayer in Crl.O.P.No.15898 of 2020: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioners bearing Numbers:510909010085415,

https://www.mhc.tn.gov.in/judis/

50010101010410127, 510909010145177, 510909010112489 maintained with the 2nd respondent bank.

Prayer in Crl.O.P.No.15900 of 2020: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioners bearing Number: 360132255210 maintained with the 2nd respondent bank.

Prayer in Crl.O.P.No.16537 of 2020: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioners bearing Numbers: 00000035646776944, 00000035359052622, 00000037838424210 maintained with the 2nd respondent bank.

In all Crl.O.Ps.
For Petitioners : Mr.Myilsamy
For Respondents : Mr.M. Mohamed Riyaz
APP for R1
Mr.N.Elumalai for R2

COMMON ORDER

The issues involved in all these Criminal Original Petitions are common and hence they are heard together and disposed of through this common order.

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2. These petitions have been filed challenging the freezing of the Savings Bank Account and Current Account of the petitioners maintained in the 2nd respondent Bank.

3. The case of the petitioners is that an FIR came to be registered in

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Cr.No.129 of 2020 against the petitioners and two others for an offence under Section 2(e), 4 of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) order 2005 r/w.7(1) a (ii) of Essential Commodities Act 1955 and 285 IPC. In the course of investigation, the 1st respondent police seems to have taken steps to freeze the Savings Bank Account and Current Account of the petitioners and also the company. Aggrieved by the same, the present petitions have been filed before this Court.

4. The learned counsel for the petitioners submitted that freezing of the accounts by the respondent police is totally unwarranted and the same is violative of the mandatory requirements under section 102 of Cr.P.C.

5. The learned Govt. Advocate appearing on behalf of the respondent Police submitted that the Bank Accounts were freezed on 22.09.2020 and the same was intimated to the Judicial Magistrate II, Thiruppur on 4.1.2021. The learned counsel submitted that such freezing accounts was considered to be essential in the course of investigation.

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

7. Freezing of Bank Accounts has been held to fall within the purview of Section 102 of Code of Criminal Procedure since the Bank Account is treated to be a moveable property. Where the Bank Account is freezed without notice to the concerned person and report is not immediately sent to the jurisdictional Magistrate Court, the freezing of Bank Accounts gets vitiated and the same requires the interference of the Court.

8. Useful reference can be made to the judgment of the Honourable Supreme Court in the case of **State of Maharashtra Vs.Tapas D.Neogy** reported in **1997 (7) SCC Page 685**. This Court has also taken into account the judgment of this Court in the case of **T.Subbulakshmi and another vs. The Commissioner of Police, Chennai-8** and others reported in **2016 (2) MWN (Cr.) 411**.

9. In the present case, the Bank account has been freezed without notice to the petitioner and without a report submitted to the Magistrate. In

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fact, the intimation has been given to the Magistrate only last week well after the present petition was filed before this Court in the month of September 2020. Therefore, the action on the part of the respondent police in freezing the Bank accounts maintained before the 2nd respondent Bank is completely vitiated and it is unsustainable in the eyes of law.

10. In view of the above, this Court has no hesitation to order for the defreezing of the accounts of the petitioners maintained before the 2nd respondent Bank forthwith. If the respondent police, in the course of investigation, wants to freeze the Bank Accounts, mandatory requirements as provided under section 102 Cr.P.C and the law on the issue will have to be strictly complied with.

11. These Criminal Original Petitions are accordingly allowed.

सत्यमेव जयते

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11.01.2021

Index :Yes/No
Internet:Yes/No
Speaking/Non speaking order
msr

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To

1. The Deputy Superintendent of Police,
   CS CID-Chennai,
   Tiruppur Police Station,
   Tiruppur District.

2. The Public Prosecutor,
   High Court, Madras.

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N. ANAND VENKATESH,J

msr

Crl.OP.Nos.15894, 15898, 15900 and 16537 of 2020

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11.01.2021

Crl.OP.Nos.15894, 15898,15900 and 16537 of 2020

N.ANAND VENKATESH., J.

Today, the matter was listed under the caption "for being mentioned" at the instance of learned counsel for the petitioners.

2.It is seen from records that the name of the 2nd respondent Bank is different in all the three petitions and whereas, it is mentioned as Bank of Baroda in all the three criminal original petitions. The cause title shall be independently typed in each criminal original petition. That apart, in Crl.O.P.No.15900 of 2020, the account number has been mentioned as 360132255210. Instead, the account number shall be mentioned as 36013225210.

3.The corrected cause title and prayer shall read as follows:

"

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.Nos.15894, 15898, 15900 and 16537 of 2020

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Crl.OP.No.15894 of 2020

P. Jayapal .. Petitioner

Vs.

1.The State, rep. By
The Deputy Superintendent of Police,
CS CID-Chennai,
Tiruppur Police Station,
Tiruppur District.
(Crime No.129 of 2020)

2.The Manager,
Bank of Baroda,
Uthukuli Branch,
Hospital Road,
Uthukuli,
Erode District,
Pin Code: 638 7512 ... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioner bearing Number: 05500100002335 maintained with the 2nd respondent bank.

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Crl.OP.No.15898 of 2020

1.P. Jayapal

2. J. Yamuna .. Petitioners

Vs.

https://www.mhc.tn.gov.in/judis/

1.The State, rep. By
The Deputy Superintendent of Police,
CS CID-Chennai,
Tiruppur Police Station,
Tiruppur District.
(Crime No.129 of 2020)

2.The Manager,
City Union Bank,
Uthukuli Branch,
No.32/6, Tiruppur Road,
Uthukuli,
Erode District,
Pin Code: 638 7512 ... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioners bearing Numbers:510909010085415, 50010101010410127, 510909010145177, 510909010112489 maintained with the 2nd respondent bank.

Crl.OP.No.15990 of 2020

1.P. Jayapal

2. J. Yamuna .. Petitioners

Vs.

1.The State, rep. By
The Deputy Superintendent of Police,
CS CID-Chennai,
Tiruppur Police Station,
Tiruppur District.

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https://www.mhc.tn.gov.in/judis/

(Crime No.129 of 2020)

2.The Manager,
State Bank of India,
Uthukuli Branch,
17, Old Kangeyam Road, Uthukuli RS,
Erode District,
Pin Code: 638 7512 ... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioners bearing Number: 36013225210 maintained with the 2nd respondent bank.

Crl.OP.No.16537 of 2020

1.P. Jayapal

2. J. Yamuna .. Petitioners

Vs.

1.The State, rep. By
The Deputy Superintendent of Police,
CS CID-Chennai,
Tiruppur Police Station,
Tiruppur District.
(Crime No.129 of 2020)

2.The Manager,
State Bank of India,
Uthukuli Branch,
Uthukuli,
Erode District,
Pin Code: 638 7512 ... Respondents

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https://www.mhc.tn.gov.in/judis/

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to direct the respondents to defreeze the accounts of petitioners bearing Numbers: 00000035646776944, 00000035359052622, 00000037838424210 maintained with the 2nd respondent bank. ”

4.The Registry is directed to carry out the necessary corrections and issue a fresh order copy to the learned counsel for the petitioners as well as the learned Additional Public Prosecutor appearing on behalf of the respondent police.

24.08.2021

ssr

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N.ANAND VENKATESH., J.

ssr

Crl.OP.Nos.15894, 15898, 15900 and 16537 of 2020

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24.08.2021