BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2021
CORAM:
THE HON'BLE MR JUSTICE G.ILANGOVAN

WP.(MD)No.10612 of 2021

1.Mr.C.Vigneshwaran
2.Mrs.Ramya : Petitioners

Vs.

1.M/s.Tamilnadu Mercantile Bank Ltd.,
represented by its Managing Director,
Head Office, No.57, V.E. Road,
Thoothukudi, Thoothukudi District.

2.M/s.Tamilnadu Mercantile Bank Ltd.,
Represented by its Branch Manager,
Mullakkadu Branch,
Tiruchendur Main Road,
Mullakkadu, Thoothukudi,
Thoothukudi District.

3.M/s.Tamilnadu Mercantile Bank Ltd.,
Represented by its Branch Manager,
Tirupur Branch,
No-Old 90G-93G, New 233-236,
Kamarajar Road,
Palladam Road,
Tirupur-641 604, Tirupur District.

4.The Sub Inspector/Investigation Officer,
Bannadevi Police Station,
Kapil Vihar Colony,
Aligarh-202001,
Uttar Pradesh. : Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ or Order or Direction more particularly in the nature of a Writ of Certiorari, calling for the records relating to Freezing of Bank Account of the 1st petitioner Account No.027700050900284 and Account No.027100050304779 by way of a impugned letter, dated 04.06.2021 issued by the 2nd respondent and the 2nd petitioner Account No.075100050308610 by way of a impugned letter, dated 05.06.2021 by the 3rd respondent at the request of the

4th respondent and quash the same and direct the respondents to permit the petitioners to operate their Bank Accounts freely.

For Petitioner : Mr.N.Satheesh Kumar

For R1 to R3 : Mr.N.Dilip Kumar

For 4th Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

O R D E R

This Writ Petition has been filed to call for the records relating to Freezing of Bank Account of the 1st petitioner Account Nos.027700050900284 and 027100050304779 by way of the impugned letter, dated 04.06.2021 issued by the 2nd respondent and the 2nd petitioner Account No.075100050308610 by way of the impugned letter, dated 05.06.2021 by the 3rd respondent at the request of the 4th respondent and quash the same and direct the respondents to permit the petitioners to operate their Bank Accounts freely.

2.**The case of the petitioners in brief**:-

The petitioners are husband and wife. In the course of business transaction one Manoj Kannan, who was running a business in the name of style of M/s.Green Mint PTI Ltd., had dealing, it was undertaken through appropriate process of law. All the money transactions were undertaken through proper procedure through Bank. After February 2020, the petitioners did not export any goods to the above said person, since payments were yet to be received. So a request was made by the petitioners to close the balance amount before February 2020-2021. Obtained a hand loan of Rs.12,00,000/- from the above said Manoj Kannan. That amount was transferred to the account of the 2nd petitioner. But she was no way connected with the business transaction between the first petitioner and the above said Manoj Kannan. Towards the repayment of the above said Rs.12,00,000/-, Rs.10,00,000/- was paid on 25.02.2021. In the meantime, a case in Crime No.147 of 2021 has been registered against the above said Manoj Kannan for the offence under sections 420 and 406 IPC. The 4th respondent has issued a notice under section 41(A) and Section 160 of Cr.P.C to the petitioners to appear, on 04.06.2021. So because of the long distance, they were not in a position to appear before the enquiry officer. In the meantime, on the basis of the request, the Bank Account Nos.027700050900284 and 027100050304779 of the 1st petitioner and the Bank Account No.075100050308610 of the 2nd petitioner have been freezed without any communication. Seeking de-freezement of the petitioners Bank Account, this petition came to be filed.

3.Counter of the 4th respondent has been filed. So also the counter of the respondents 1 to 3 has also been filed. In the counter, it has been stated that the disputed amount of

Rs.12,00,000/- was not paid to the 2nd petitioner as hand loan, but it was the loan transaction to JP Exports with the company of the first petitioner. The accused Manoj Kannan has directly transferred funds in the 2nd petitioner's account on various dates. The petitioners are part of the money laundering offence. Similar type of transactions have also been found in the co-accused account also. It is the allegation that Manoj Kannan has siphoned off Rs.7.5 Lakhs US Dollars from the Green Mint Private Limited, Indian Bank Account with the help of the petitioners. These petitioners are also arrayed as accused with above Manoj Kannan. Since the involvement of the petitioners in the above said crime is noticed, freezing of the account has been ordered. These petitioners used the Company name for committing the offence by raising and transferring the crime amount. Strong objection has been made to defreeze the account. It is the allegation of siphoned off Rs.7.5 Lakhs from the de-facto complainant company to the various accounts by the first accused namely Manoj Kannan. Now the case of the prosecution is that these petitioners also actively committed the offence with the above said Manoj Kannan in money laundering crime. These petitioners were also arrayed as accused in the above said crime. So according to the prosecution, since the investigation is in the preliminary stage, de-freezing of the account will be improper. The statement of the account is also produced by the petitioners and it is the case of the petitioners that they offered only hand loan from Manoj Kannan and that was also repaid.

4.Whatever it may be, now it is seen that the Hon'ble Supreme Court on the basis of the SLP filed by the first accused Manoj Kannan has stayed the further proceedings in Crime No.147 of 2021 on the file of the 4th respondent herein, in SLP No.5229 of 2021, dated 21.05.2021. The Hon'ble Supreme Court has also ordered that the bail application of the petitioners can be considered on merits. So equally this order will apply to these petitioners also and it can be decided on merits. The date of the order is 25.05.2021. The date of freezing of the account is 04.06.2021, which means much after the order of stay granted by the Hon'ble Supreme Court, communication to the freezment of the account has been sent to the petitioners on 04.01.2021 and 05.01.2021. So apparently those freezement have been effected only subsequent to the order of the Hon'ble Supreme Court. It appears that without knowing the order of the Hon'ble Supreme Court, the freezement of the account has been undertaken. The fact remains that the petitioners did not respond and appear before the enquiry officer in response to the notice issued.

5.Though the mistake has been committed on the side of the petitioners, from the facts narrated above and in view of the order passed by the Hon'ble Supreme Court, I am of the considered opinion that the account can be de-freezed. But however, a direction is issued to the respondents 1 to 3 to keep a watch on the transaction in the account of the petitioners.

6.With the above said direction, this petition stands **allowed.** The respondents 1 to 3 are hereby directed to de-freeze the account of the petitioners and permit them to operate the same. The above direction is subject to the outcome of SLP pending before the Hon'ble Supreme Court. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1.The Sub Inspector/Investigation Officer,
Bannadevi Police Station,
Kapil Vihar Colony,
Aligarh-202001,
Uttar Pradesh.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-33709[F] dated 08/11/2021)

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MGJ(06.12.2021) 4P 3C