



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.13895 of 2020

and

W.M.P. (MD)Nos.11543 and 11544 of 2020

S.Jagadeesh

... Petitioner

Vs.

1.The Authorized Officer,
Canara Bank,
Usilampatti Road,
Thirumangalam Branch,
Thirumangalam,
Madurai District.

2.The Inspector of Police,
District Crime Branch,
Madurai District.

... Respondents

[2nd respondent is suo motu impleaded vide order dated 07.10.2020, made in W.P.(MD)No.13895 of 2020]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Ref.SN/01/2020-21, dated 11.09.2020, quash the same and consequently, refrain the first respondent from initiating proceedings against the petitioner under the SARFAESI Act.

For Petitioners : Mr.V.Vijayshankar

For R1 : Mr.N.Dilipkumar
Standing Counsel

For R2 : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to challenge notice issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, by respondent No.1, *inter alia* alleging that the money has been given in favour of the Contractor without express consent of the petitioner, in collusion with respondent No.1.



2. When the matter was taken up for hearing on 07.10.2020, upon hearing the submissions made by the learned counsel appearing for the petitioner, this Court passed the following order:-

"The Inspector of Police, District Crime Branch, Madurai District, who has conducted the investigation in Crime No.9 of 2019, on the file of the District Crime Branch, Madurai District is suo motu impleaded as second respondent.

2. It is seen from the records that this Court, in Crl.O,P(MD)No.11520 of 2019, by order dated 19.08.2019 directed the District Crime Branch to complete the investigation and file a final report in Crime No.9 of 2019, on the file of the District Crime Branch, Madurai District, within a period three months. It is not known whether, any final report, as directed by this Court has been filed or not?

3. This Court denied anticipatory bail to the first accused on 20.11.2019 in the application filed in Crl.O.P(MD) No.13273 of 2019. After denial of the anticipatory bail, whether the said accused and other accused were arrested or not is also not known.

4. Mr.N.Dilip Kumar, learned Standing Counsel, who takes notice for first respondent, undertakes to file a status report and Mr.M.Muthu Geethaiyan, learned Special Government Pleader takes notice for the second respondent.

5. Considering the peculiar nature of the case, which involves the registration of a criminal case against a Bank Manager and others, there shall be an order of interim stay as prayed for.

6. Post this matter on 13.10.2020 for filing status report."

3. The learned counsel appearing for the petitioner submitted that though F.I.R. has been registered in the year 2018, the investigation is still going on. There is a collusion between the respondents and the Contractor. In such view of the matter, this Writ Petition will have to be allowed, directing the petitioner to go through the process as stipulated under the Statute by approaching the jurisdictional Tribunal.

4. Mr.N.Dilipkumar, learned Standing Counsel appearing for the respondent Bank submitted that the allegations are not true. It is only on the request made by the petitioner from time to time in tune with the agreement, amount has been released and inspections have been made periodically.

5. The learned Additional Government Pleader appearing for the respondent No.2 submitted that the investigation is on and Accused



No.1 has already been arrested and charge sheet has also been filed.

6.By way of reply, the learned counsel appearing for the petitioner submitted that the factum of inspection is not true and the photographs produced would show that even now, there is no work takes place.

7.Certainly, the issues bordering disputed questions of facts. Therefore, we do not wish to venture into the same, especially, when an investigation was done and final report has been filed. Secondly, the accused persons, including the Contractor are not before us.

8.In such view of the matter, we only permit the petitioner to exhaust the remedy under the Statute by approaching the jurisdictional Tribunal within a period of four weeks from the date of receipt of a copy of this order. Till such time, status quo as on today shall be maintained.

9.This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

smn2

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

The Inspector of Police,
District Crime Branch,
Madurai District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-13671[F] dated 25/03/2021)

+1 CC to M/s.V.KARTHIKEYAN, Advocate (SR-13748[F] dated 25/03/2021)

+1 CC to M/s.SPL GP (SR-13905[F] dated 26/03/2021)

W.P. (MD) No.13895 of 2020

25.03.2021