

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

CRL.O.P.NO. 25788 OF 2016

Dr.L.Prakash

... Petitioner

Versus

The State rep. by
The Assistant Commissioner of Police (L & O),
T.Nagar Range,
Chennai-600 026.

... Respondent

PRAYER :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order in Crl.M.P.No.228 of 2016 dated 09.08.2016 in S.C.No.9 of 2004 on the file of the learned XIX Addl. Sessions Court, Chennai and direct to defreeze the petitioner's bank accounts namely

1. Citi Bank Account No. 5195875447, Annasalai Branch
2. Union Bank of India, Account No.1138, Egmore Branch
and inform the bank managers respectively.

For Petitioner	:	Mr.B.Natarajan
For Respondent	:	Mr.C.E.Pratap, Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.228 of 2016 in S.C.No. 9 of 2004, dated 09.08.2016 and to defreeze the petitioner's accounts viz., Citi Bank A/c. No.5195875447, Annasalai branch and Union Bank of India A/c. No. 1138, Egmore Branch.

2. The case of the petitioner is that, he was arrested by the respondent police for various offences in Crime No. 1466 of 2001. During the investigation, his bank accounts viz., Citi Bank A/c. No.5195875447, Annasalai branch and Union Bank of

India A/c. No. 1138, Egmore Branch have been freezed by the respondent police. Thereafter, after full-fledged trial, the petitioner was convicted and sentenced to undergo life imprisonment and also imposed fine. Challenging the above said conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A. No. 770 of 2011, wherein, the Division Bench of this Court confirmed the conviction and modified the sentence as the petitioner has already undergone the entire period of sentence, however, he was directed to pay a sum of Rs.1,19,000/-. Subsequently, the petitioner has also paid the fine amount and he was released from jail. Thereafter, challenging the order passed in Crl.M.P.No.3258 of 2001 defreezing his accounts, the petitioner has filed a petition before this Court in Crl.O.P. No.2582 of 2016 and this Court by an order dated 04.04.2016 set aside that order and remanded the matter to the trial court to conduct detailed enquiry and pass appropriate orders on merits regarding defreezing accounts. On remand, once again, the trial court passed an order dated 09.08.2016 dismissing the petition in Crl.M.P.No.228 of 2016. Challenging that order, the present Criminal Original Petition has been filed by the petitioner.

3. Mr. B.Natarajan, learned counsel appearing for petitioner would submit that the bank accounts of the petitioner was freezed as early as in the year 2001. Thereafter, after conviction, the petitioner has undergone sentence and also paid the fine amount and now, he was released from jail. In those circumstances, there is no necessity to freeze the petitioner's accounts. But, the trial court without considering the same, mechanically dismissed the petition.

4. Heard the learned Government Advocate (Criminal side). Respondent filed a counter affidavit stating that since the period of incarceration was set off and the fine amount was also remitted, the petitioner's accounts are to be defreezed. The relevant portion of the counter affidavit reads as follows :-

"Since the period of incarceration was set off and the fine amount also having been remitted and considering the petitioner's pitiable condition, it is just and necessary that the petitioner's bank accounts are to be defreezed. The petitioner preferred a petition along with copies of the order in Crl.M.P.No.3258 of 2021, dated 31.12.2001 order of this Court in Crl.Appeal No.770 of 2011 dated 24.04.2015 and copy of receipt of payment of fine dated 25.04.2015 and copy of the order of of release by Prison Authorities dated 25.04.2015 before the learned XVII Metropolitan Magistrate Court, Saidapet, praying for a direction to defreeze the

said bank accounts on 07.05.2015 and the same was returned for the reason that the original records are not available there, since the records would be available only in the remittal/appellate court. Hence, the petitioner preferred a Criminal Original Petition before the Hon'ble High Court of Madras in Crl.O.P.No. 2582 of 2016, which was ordered on 04.04.2016 directing this Hon'ble Court to enquire the matter as to defreeze the bank accounts. Since the main S.C.No.9 of 2004 itself concluded and ended up in conviction and moreover the accused has undergone the entire period of sentence and now the petitioner is released, there is no necessity as such to freeze the bank accounts of the petitioners. The respondent do not have objections whatsoever in this regard to defreeze the above mentioned bank accounts."

The learned counsel would also submit that they have no objection with regard to defreeze the petitioner's accounts.

5. Heard submissions made by learned counsel appearing for petitioner and learned Government Advocate appearing for respondent and perused the records.

6. Considering the facts and circumstances and also the counter affidavit filed by the respondent stating no objection to defreeze the petitioner's accounts, I am inclined to direct the respondent police to defreeze the petitioner's accounts viz., Citi Bank A/c. No.5195875447, Annasalai branch and Union Bank of India A/c. No. 1138, Egmore Branch. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1. The XIX Additional Sessions Court,
Chennai.
2. The Assistant Commissioner of Police (L & O),
T.Nagar Range,
Chennai-600 026.

3. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section, High Court,
Madras.

CRL.O.P.No. 25788 of 2016

JPL(CO)
PM/25/01/2022