



W.P.(MD)No.17090 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.17090 of 2012

and

M.P.(MD)No.1 of 2012

The Area Manager

Muthoot Fincorp Ltd.,

Ground Floor, Door No.3/1,

Dindigul Main Road,

Karisalkulam, Vilangudi,

Madurai.

...Petitioner

Vs.

1.The Superintendent of Police

Economic Offence Wing - II,

Madurai.

2.The Deputy Superintendent of Police,

Economic Offence Wing - II,

Madurai.



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3.The Inspector of Police

Economic Offence Wing- II,

Madurai.

... Respondents

PRAYER : Petition - filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records related to the Impugned notice, dated 29.11.2012 in C.No.162/DSP/EOW-II/MDU/2012 issued by the second respondent and after going through its validity, legality and propriety, be pleased to quash the same as illegal, ultra vires and unconstitutional and for consequential orders.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.RMS.Sethuraman

Additional Public Prosecutor

ORDER

When the Writ Petition came up for hearing on 02.11.2022, the following order was passed by this Court :

"The subject matter of challenge in this writ petition pertains to the impugned notice dated



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29.11.2012 issued by the second respondent to the petitioner directing the petitioner to hand over the jewelry that has been described in the notice.

2. When the matter came up for hearing, on 13.09.2022, this Court directed the learned counsel for the petitioner to take instructions and update on the present status of the jewelry that has been mentioned in the impugned notice.

3. When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that all the jewelry were auctioned on 05.08.2015 itself and upon auctioning the same, a total of Rs.24,41,888.00 was realized against the total receivable of Rs.25,68,166.36/-.

4. The learned counsel for the petitioner submitted that the respondent police has not initiated action as contemplated under Section 4 of the TANPID Act. The learned counsel further submitted that the petitioner, who is the pawnee cannot be mulcted with any liability and an immunity is given to the pawnee under Section 178(a) of the Indian Contract Act. The learned counsel, therefore, submitted that nothing more will survive in this writ petition.



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5.The learned Additional Public Prosecutor sought for some time to take instructions, since the material was provided to the police only today.

6.Post this case under the caption, 'for orders' during the next hearing date."

2. When the matter was taken up for hearing today, the learned Additional Public Prosecutor, on instructions, from Mr.P.Pandi Selvan, Deputy Superintendent of Police, Economic Offence Wing, Madurai, informed this Court that no Government Order was passed for attachment of the movable property and only a communication was sent by the Deputy Superintendent of Police, Economic Offence Wing, Madurai, to the petitioner.

3. In view of the above, the right of the petitioner to deal with the jewellery that was pledged with them cannot be taken away by a mere communication issued by the Deputy Superintendent of Police, without passing a Government Order, under the TANPID Act. That apart, the petitioner cannot be mulcted with the liability without



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following the due process of law. The subsequent development that has been taken in this case and which has been taken note of in the earlier order passed on 02.11.2022, virtually brings down the curtains as against the petitioner and the impugned communication, dated 29.11.2012 is liable to be interfered by this Court. Accordingly, the same is quashed.

4. In the result, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2022

Index: Yes/No
Internet: Yes/No
rm



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N.ANAND VENKATESH, J.

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