



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.03.2022
CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
WP(MD). No. 14830 of 2021
&
WMP(MD) No. 553 of 2022

WEB COPY

A.Saravanan

... Petitioner

Vs

1. The Assistant Commissioner of Police,
O/o the Assistant Commissioner of Police,
Town Crime Sub Division,
Tirunelveli City.

2. State represented through
The Inspector of Police,
City Crime Branch,
Tirunelveli City.
(In Crime No.42 of 2018)

3. The Branch Manager,
Canara Bank,
Edagramam Branch,
Thiruvananthapuram,
Kerala State.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ, order or direction in the nature of writ directing the 3rd respondent to withdraw from A/c.No.60912442 or balance amount redeposit the amount of Rs.64,26,100/- to the petitioner's Company Account No: 048120000032911 based on petitioner's representation dated 11.03.2021 within the stipulated time as fixed by this Court.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.B.Thanga Aravindh
No.1 & 2 Government Advocate

For Respondents : Mr.Pala Ramasamy
No.3

O R D E R

This Writ Petition has been filed to issue a Writ of Mandamus, directing the third respondent to withdraw from A/c.No.60912442 or balance amount redeposit the amount of Rs.64,26,100/- to the petitioner's Company Account No: 048120000032911 based on



petitioner's representation dated 11.03.2021 within the stipulated time as fixed by this Court.

2.The petitioner is the complainant. He is working as a Senior Administration Manager of Pothys Textitles, Tirunelveli Town branch. While being so, on 16.09.2018, there was shortage of Rs.1,50,000/- (Rupees One lakh fifty thousand) was found in the Accounts Section and as such, they conducted enquiry. During enquiry, one Dakshinamurthy admitted his guilt and he was relieved from service with effect from 22.09.2018. Thereafter, while checking the accounts of current section, they came to understand about the realisation of cheque bearing number 907288 for a sum of Rs.34,75,600/- and cheque bearing number 907289 for a sum of Rs.29,50,500/- in favour of one Nibu Das, who is having account with the third respondent herein. Thereafter, they found that the said Dakshinamurthy had stolen the alleged cheque leaves and handed over to the said Nibu Das. Then, it was presented for collection and the same has been cleared by the petitioner's bankers and entire amount has been transferred in the account of said Nibu Das. Therefore, the petitioner lodged the complaint and the same has been registered in Crime No.42 of 2018, as against the accused persons, including the said Dakshinamurthy for the offences punishable under sections 381, 408, 465, 467, 468, 471 IPC. During investigation, the second respondent found that the entire amount has been cleared through the above said two cheques from the petitioner's bank and the amount is lying in the account of said Nibu das, on the file of the third respondent. Immediately, the said amount has been freezed. After completing investigation, the second respondent filed final report and the same has been taken cognizance as C.C.No. 34 of 2022, on the file of Judicial Magistrate, No.I, Tirunelveli and it is pending for trial.

3.Even before this writ petition, the second accused filed a writ petition in W.P(MD).No.12133 of 2020, seeking for direction, to direct the third respondent to refreeze his account viz., A/c No.6091214000002, lying on the file of the third respondent.

4.The learned counsel appearing for the third respondent submitted that the second accused is having account with the third respondent's bank in 6091214000002 and on 19.10.2018, a sum of Rs.64,26,100/- (Rupees Sixty Four Lakhs Twenty Six Thousand and One Hundred) is lying, since as directed by the first respondent, the alleged account has been freezed.

5.Perusal of charge sheet reveals that there are totally four accused. The said Dakshinamurthy is arrayed as first accused and the said Nibu Das is arrayed as second accused. The said cheques were stolen by the first accused and handed over to the second accused, who in turn, forged the signature of the petitioner herein and presented the cheques for collection. The said cheques were cleared by the petitioner's bank and the entire amount is lying in the



herein. Therefore, the petitioner is entitled to get back the said amount from the third respondent bank.

6. In view of the above, this Writ Petition is allowed and the third respondent is directed to transfer the sum of Rs.64,26,100/- (Rupees Sixty Four Lakhs Twenty Six Thousand and One Hundred), in favour of the petitioner's bank account bearing No. 048120000032911 forthwith. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Assistant Commissioner of Police,
O/o the Assistant Commissioner of Police,
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Tirunelveli City.
2. State represented through
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City Crime Branch,
Tirunelveli City.
3. The Branch Manager,
Canara Bank,
Edagramam Branch,
Thiruvananthapuram,
Kerala State.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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Date : 08/03/2022