



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.13717 of 2021

Nallakani

... Petitioner

Vs.

1. State represented through
The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

2. The Manager,
Tamilnadu Mercantile Bank,
Ariyakulam Branch,
D No.6/104A, 3rd Street, Ground Floor,
Teachers Colony,
Ariyakulam - 627 011.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the 1st respondent to immediately instruct the 2nd respondent to De-freeze the Savings Bank account No.402109677918372, Current Account No.402529677918372 and Fixed Deposit No. 402200050100432, Tamilnadu Mercantile Bank, Ariyakulam Branch and the 2nd respondent to permit the petitioner to access the said accounts.

For Petitioner	:	Mr.G.Prabhu Rajadurai
For R-1	:	Mr.R.M.Anbunithi
		Additional Public Prosecutor
For R-2	:	Mr.N.Dilip Kumar

ORDER

This Criminal Original Petition has been filed to direct the 1st respondent to immediately instruct the 2nd respondent to defreeze the Savings Bank account No.402109677918372, Current Account No.402529677918372 and Fixed Deposit No.402200050100432, Tamilnadu Mercantile Bank, Ariyakulam Branch and the 2nd respondent to permit the petitioner to access the said accounts.



2. The case of the petitioner is that he is a dealer in cardamom and he used to purchase cardamom from the estates. He is also engaged in real estate business and is running a proprietorship by name M/s.R.K.Enterprises. The petitioner is having savings bank account with the second respondent in Account No.402109677918372 and a fixed deposit for a sum of Rs.20 lakhs under Fixed Deposit No.402200050100432. Similarly, the petitioner is also maintaining savings bank account of his proprietorship in Account No.402529677918372. While being so, the petitioner involved in the case registered in Crime No.18 of 2019 on the file of the first respondent for the alleged offences punishable under Section 420 of IPC and it was registered on 10.09.2019.

3. Pursuant to the said F.I.R, the first respondent arrested the petitioner and remanded to judicial custody. Thereafter, the accounts of the petitioner including the fixed deposit with the second respondent have been freezed. The same was intimated by the second respondent bank by letters dated 30.04.2021.

4. The only point for consideration is that the first respondent whether violated the procedure as contemplated under Section 102(3) of Cr.P.C.

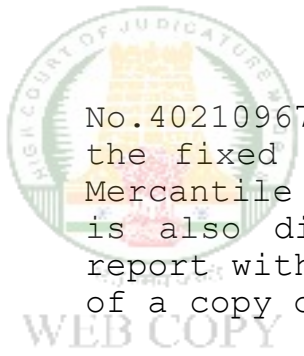
5. The learned Additional Public Prosecutor appearing for the first respondent would submit that after freezing the savings bank account, current account of the petitioner and also the fixed deposit, the first respondent did not inform the same to the concerned jurisdictional Magistrate Court so far.

6. It is relevant to extract the provisions under Section 102 (3) of Cr.P.C. as follows:

"(3)Every police officer acting under Sub-section(1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same."

7. Admittedly, the first respondent did not comply the procedure as contemplated under Section 102(3) of Cr.P.C. Therefore, the freeze of the accounts and fixed deposit have no legs to stand further.

8. Considering the above submission, the first respondent is directed to instruct the second respondent to de-freeze the savings bank account of the petitioner in Savings Bank account



No.402109677918372, Current Account No. 402529677918372 and also the fixed deposit in Fixed Deposit No. 402200050100432, Tamilnadu Mercantile Bank, Ariyakulam Branch, forthwith. The first respondent is also directed to complete the investigation and file a final report within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. With the above direction, this Criminal Original Petition is allowed. However, the second respondent is at liberty to freeze the accounts of the petitioner in manner known to law, if so required, after complying with the procedure as contemplated under law.

Sd/-

Assistant Registrar (LA&MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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 Inspector of Police,
District Crime Branch,
Nagercoil, Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-7711[F] dated 22/02/2022)

Crl.O.P(MD) .No.13717 of 2021
21.02.2022

SMV(CO)
KB(18.03.2022) 3P 4C