BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.24968 of 2022
and
W.M.P.(MD)No.19080 and 19081 of 2022

R.Manuprakash ... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Superintendent of Police,
Kanyakumari District,
Kanyakumari.

3.The Inspector of Police,
Aralvaimozhy Police Station,
Aralvaimozhy,
Kanyakumari District.

4.The Unique Identification Authority of India (UIDAI),
The Government of India,
Department of Ministry of Electronic and
Information Technology,
Bangla Sahib Road,
Behind Kali Mandir,
Gole Market,
New Delhi-1.

5.The Branch Manager,
Indian Overseas Bank,
Aramboly Branch,
Kanyakumari District. ... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the fourth respondent to remove the petitioner's name in the Aadhar Card as a criminal in pursuance of his representation dated 02.09.2022 and also further direct the fifth respondent to defreeze the petitioner's joint family account with his mother in Indian Overseas Bank, Aramboly Branch, Kanyakumari District bearing Account No. 133301000019437 forthwith.

For Petitioner	: Mr.S.Palani Velayudham
For R1	: Mr.K.Christy Theboral Additional Government Pleader
For R2 and R3	: Mr.B.Thanga Aravindh
For R4	: Mr.L.Victoria Gowri ASGI
For R5	: Mr.N.Dilipkumar

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the fourth respondent to remove the remarks in the petitioner's Aadhar Card as 'criminal' in pursuance of his representation dated 02.09.2022 and also further direct the fifth respondent to defreeze the petitioner's joint family account with his mother in Indian Overseas Bank, Aramboly Branch, Kanyakumari District bearing Account No. 133301000019437 forthwith.

2. The grievance of the petitioner is that in the Adar Card of the petitioner an adverse remark has been made on the basis of the Police Officials as 'criminal' and the joint account of the petitioner and his mother has also been frozen.

3.The learned counsel for the petitioner submitted that the petitioner has been falsely implicated as fourth accused in a case in Crime No.490 of 2020 based on the confession given by the co-accused, when he was minor. So far no final report has been filed in the said case, since no materials have been collected against the petitioner. The Police Officials sent a communication to the Unique Identification Authority of India to instruct the ministry of Electronic and Information Technology Department to mention a remarks in his Aadhar Card entries to made remarks in the Adar Card of the petitioner as he is the criminal. He did not care about the entries made in the Adar Card as he does not know the consequences of such entry.

4.After completing his studies, the petitioner joined in a private company. At the verge of completion of his probation period, the petitioner was instructed to submit the Aadhaar Card of the petitioner for verification in order to confirm his employment. At the time of verification, the remarks made in the Aadhar Card, that was made when the petitioner was juvenile, were found by the employee of the petitioner and the petitioner was refused confirmation of his employment. The petitioner made a representation dated 02.09.2022 seeking to delete the said entries. But the same has not been considered by the respondent.

5.Further, pursuant to the communication of the Police concerned, the joint account of the petitioner in the Indian Overseas Bank was frozen without issuing any notice to the petitioner. This according to the petitioner is wholly against the principles of natural justice. There is no need to freeze the joint account of the petitioner. But the respondent police, without following due process of law, had made entries in the Aadhar Card mentioning him as a criminal and also frozen the joint account of the petitioner. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

6.The learned Government Advocate (Crl.Side) appearing on behalf of the respondents 2 and 3 submitted that in the letter written to the concerned Bank, it is clearly stated that the petitioner is having some illegal transaction in his account and he is continuing to do the same. Hence, the respondent police directed the concerned Bank to freeze the joint account of the petitioner. Under Section 102 Cr.P.C., the Police is empowered to seize certain property, which may be found under circumstances, which creates suspicion of the commission of any offence. Hence, the Police concerned had recommended the Bank to freeze the joint account of the Petitioner.

7.The learned Assistant Solicitor General of India appearing on behalf of the fourth respondent would submit that the Adar Card is only the demographic and biometric information of an individual. There cannot be any entries other than that. The UDAI clearly states that they have not made any entries in the Adar Card as alleged by the petitioner.

8. Heard the submissions made on either side.

9. It is made clear that the UIDAI is only an bimetric information of an individual. No such entries can be made in the Adar Card of an individual. When the petitioner came to know about the entries in the Adar Card, he does not chose to challenge the same before the Competent Court on the ground that he was a minor at the alleged time of occurrence. The question as to whether the allegations made against the petitioner are true or not cannot be decided by this Court exercising jurisdiction under Article 226 of the Constitution of India. The petitioner has to necessarily approach the competent Criminal Court to redress his grievance.

10. With regard to the freezing of the joint account of the petitioner, the Respondent Police only recommended the Bank to freeze the account as there is some suspicious transaction and he is continuing to do the said act of selling drugs. The contention of the petitioner is that the joint account has been

frozen without any prior notice to the petitioner and hence, the same may be directed to be de-freezed. Such a direction cannot be issued by this Court. Since the account of the petitioner has some suspicious transaction, the same was directed to be frozen by the Police Officials for the well being of the Nation. The said act of the respondent Bank cannot be questioned by the petitioner on the ground that no prior notice was issued to him. It is left open to the petitioner to approach the respondent Bank seeking for de-freezing the joint account and the respondent Bank may consider the same under the prescribed rules and regulations, after obtaining clearance from the police officials concerned.

11.For the foregoing reasons, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

24.11.2022

Index : Yes/No
Internet : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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