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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.6679 of 2023

Dr.S.Hyderi
S/o.Saifuddin ...Petitioner

-Vs-

1.The Inspector of Police
Cyber Crime
North Zone, Tondiarpet
Chennai.

2.The Nodal Officer/Manager
Axis Bank, TRISHUL
Opp.Samartheswar Temple
New Law Garden, Ellisbridge
Ahmedabad.

3.The Branch Manager
Axis bank
Vasanthkunj Branch
Upper Ground Sector
C-Pocket 9 Pawa
Presidental Business Park
New Delhi-110070.

3.The Branch Manager
Kotak Mahindra Bank
Parry's Corner Branch
Chennai. ...Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to revert back the cheated amount of Rs.1,99,990/- from the accused A/c No.922010007231261 Axis Bank, Vasanthkunj Branch, New Delhi/3rd respondent herein to the petitioner's A/C No.04640020000097, IFSC Code KKBK0000464, Kotak Mahindra Bank, Parry's Corner Branch, Chennai on the basis of the notice sent by 1st respondent/Inspector of Police dated on 19.10.2022 which the petitioner is legally entitled for.

For Petitioner : Mr.C.Emalias

For respondents : Mr.A.Gopinath
Government Advocate (Crl.side)
for R1

No Appearance for R2, R3

Mr.A.Ameen for R4

ORDER

This writ petition has been filed for a direction to the 3rd respondent Bank to remit the sum of Rs.1,99,990/- to the account of the petitioner maintained in the 4th respondent Bank based on the notice that was sent by the 1st respondent on 19.10.2022.

2.Heard Mr.C.Emalias, learned counsel for the petitioner Mr.A.Gopinath, learned Government Advocate (Crl.side) for R1 and Mr.A.Ameen, learned counsel for R4. The 2nd and 3rd respondents have

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been served with notice and their names have also been printed in the cause list. However, there is no representation for the 2nd and 3rd respondents either in person or through counsel.

3.The case of the petitioner is that he is having a Bank account in the 4th respondent bank. The petitioner received SMS to pay electricity bill and believing the same, the petitioner gave certain details and as a result, a sum of Rs.1,99,990/- was debited from the bank account of the petitioner maintained in the 4th respondent bank and it was credited in the 3rd respondent bank. Since the petitioner was cheated, he gave a complaint and based on the same, an FIR was registered in Crime No.250 of 2022 on 21.7.2022. The investigation was transferred to the file of the 1st respondent and it was investigated for the offence u/s.420 IPC and Section 66A of the IT Act.

4.The 1st respondent during the course of investigation, had issued a notice dated 19.10.2022 to the 2nd respondent informing about the incident and had directed the 2nd respondent to furnish the details of the beneficiary to proceed further in the case. The 1st respondent had also directed the 2nd respondent to revert the amount that was taken away from the bank account of the petitioner maintained in the 4th respondent bank. Since the 2nd and 3rd respondents did not act upon the notice issued by the 1st respondent, the present writ petition has been filed before this Court.

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5.In the considered view of this Court, the amount of the petitioner was hacked by deception and it remains with the 3rd respondent bank. When the 1st respondent issues a notice directing the nodal officer of Axis Bank to revert the amount back to the account of the petitioner, the bank has to comply with the same. The Axis Bank cannot remain a silent spectator, when its attention has been drawn to the fact that the petitioner has been cheated and the amount from his bank account has been transferred to the Axis Bank.

6.The learned Government Advocate (Crl.side) further brought to the notice of this Court that to ensure that the amount is kept intact in the Axis Bank, the account maintained in the 3rd respondent bank was freezed by the 1st respondent and thereby, a total sum of Rs.5,41,779/- which remains in the 3rd respondent bank has been freezed.

7.In the light of the above discussion and submissions made by the learned Government Advocate (Crl.side), there shall be a direction to the 3rd respondent to revert the sum of Rs.1,99,987.50 to the account of the petitioner maintained at Kotak Mahindra Bank, Parry's Corner Branch, by acting upon the notice issued by the Inspector of Police, Cyber Crime, North Zone, Chennai dated 19.10.2022. This process shall be completed by the 2nd and 3rd respondents, within a period of one week from the date of receipt of copy of the order.

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8.This writ petition is disposed of with the above directions. No costs.

20**.09.2023**

Index : Yes/No
Internet : Yes/No
kp

To

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3.The Branch Manager
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Chennai.

4.The Public Prosecutor,
High Court, Madras.

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N.ANAND VENKATESH, J.
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