IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.RC.No.1137 of 2023

Manikandan ...Petitioner

vs.

State Rep by
The Inspector of Police,
Central Crime Branch,
Salem City
Crime No.8 of 2020 ...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, 1973 against the orders dated 25.05.2023 passed by the learned Judicial Magistrate Court No.3, Salem, in Crl. M.P. No.1783 of 2023.

For Petitioners : Mr. J. Jayan

For Respondent : Mr. R. Vinothraja, GA (Crl. Side)

ORDER

The present Criminal Revision case is filed against the orders dated 25.05.2023 passed by the learned Judicial Magistrate No.3, Salem, in Crl. M.P. No.1783 of 2023.

2. The present petitioner is the 5th accused in Crime No.8/2020 on

the file of the Central Crime Branch, Salem, which was registered based on the complaint dated 11.01.2020, by one Abdul Kudoos Asfar, s/o. Mohammed Sirajudeen, residing at D.No.454/4, Water Board Colony, Alagapuram, Katoor, Salem 636 016.

3. According to the defacto complainant, the 1st accused Ravi Kumar, canvassed various investment schemes floated by him in gold and share markets and lured him (the defacto complainant) into investing. Though the defacto complainant invested huge amount, the 1st accused did not return the said amount as promised by him and he came to know subsequently that he was cheated. His further allegation is that the 1st accused purchased a BMW car bearing Registration No.TN 72 AS 7999 and several immovable properties in the name of his wife.

4. The present petitioner is shown as A5 and he is the brother-in-law of the 1st accused. The present petitioner is a gold smith and he used to make jewels on the orders placed by various jewellery shops. According to him, the Inspector of Police, Central Crime Branch, Salem City, froze his bank account on 15.09.2022 and 17.09.2022 even though he is not at all involved in the alleged offence committed by the 1st

accused Ravi Kumar.

5. Mr. J. Jayan, learned counsel for the petitioner contended that the Investigating Officer while freezing the bank account, did not take into account the fact that the petitioner received money on 17.09.2022 from Vasavi Jewellers for making jewels and that on account of freezing of the bank account of the revision petitioner, his business transaction has come to a stand still.

6. Per contra, Mr.R.Vinothraja, learned Government Advocate for the respondent drew the attention of this court to the confession statement of the present petitioner (A5) and contended that on 15.09.2020 he received a sum of Rs.2,30,000/- from Sri Mahalakshmi Jewellers. The 1st accused is the proprietor of the said Mahalakshmi Jewellers. He therefore prayed for dismissal of the present petition.

7. It is settled law that bank accounts of any individual, entity or business may be frozen even if the account holder has no involvement in the alleged crime. The tenability of such actions is however conditioned on compliance with certain procedural safeguards and the requirement of

'reasonableness'. It is an oddly peculiar position to take that an account holder who enters into a *bonafide* and genuine transaction with another party be punished for no fault of his own due to freezing of his bank accounts. In the instant case the contention of the revision petitioner is that he has transactions with several jewellery shop owners and Mahalakshmi Jewellers is one such customer. It is to be pointed out that in most business transactions or even in a person's day to day dealings, it is not possible for any person to trace and verify the source of the other party's income before entering into each transaction. In the present case, the petitioner is a gold smith and he is having an account bearing No. 059150310875114 with Tamil Nadu Mercantile Bank. On 15.09.2022 he received a sum of Rs.2,30,000/- from Sri Mahalakshmi Jewellers and on 17.09.2022 he received a sum of Rs.5,11,100/- and another sum of Rs.2,03,200/- from Vasavi Jewellers. It is not the case of the prosecution that the owner of Vasavi Jewellers was also involved in the crime. In such circumstances freezing of the bank account of the present petitioner on 17.09.2022 is totally wrong. As far as the transaction between the present petitioner and Sri Mahalakshmi Jewellers on 15.09.2021, it is to be noted that the Investigating Officer has not specifically mentioned the period for which the bank account of the present petitioner is frozen. He cannot do it for an indefinite period.

8. Freezing of bank accounts by investigating authorities in a mechanical fashion is an increasing problem faced by Indian businesses and companies. Such actions are routinely predicated on mere allegations or suspicions of tainted amounts being credited by accused persons or suspects involved in dubious financial dealings into the business or personal accounts of a *bonafide* party. One does not need to be an accused in the offence or even named in the First Information Report for the accounts to be frozen during investigation. This may have a crippling effect on the operational aspects of a business and can cause grave financial hardships and a party bearing the brunt of such actions, often get into deep waters.

9. In the instant case, as already observed, the petitioner is a gold smith and he used to get orders from various jewellery shops for making jewels. This is also evidenced by the statement of bank accounts produced by the present revision petitioner from 29.01.2018 to 08.11.2022. Sri Vasavi Jewellers is having business transaction with the present revision petitioner right from the year 2018 and he has remitted

various amounts like he remitted a sum of Rs.5,11,100/- and Rs.2,03,200 on 17.09.2022. The Investigating Officer is definitely wrong in freezing the bank account merely on the ground that he had some business transaction with Sri Mahalakshmi Jewellers (which is owned by 1st accused) on 15.09.2022.

10. In the result,

i. the Criminal Revision Case is allowed.

ii. The orders orders dated 25.05.2023 passed by the learned Judicial Magistrate No.3, Salem, in Crl. M.P. No.1783 of 2023, is set aside.

iii. The freeze on the Bank Account of the petitioner bearing No.059150310875114 of Tamil Nadu Mercantile Bank on 15.09.2022 and 17.09.2022 by the Investigating Officer is lifted.

08.08.20

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bga
Index : yes/no
Speaking /Non speaking Order

To

1. The Judicial Magistrate No.3, Salem.

2. The Inspector of Police,
   Central Crime Branch,
   Salem City
   Crime No.8 of 2020

R.HEMALATHA, J.

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