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Crl.O.P.No.25758 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25758 of 2023

S.Bosco Arulraj

... Petitioner

Vs.

1. The Superintendent of Police,
Kancheepuram District,
Kancheepuram – 631 502.

2. The State Represented by
Inspector of Police,
Cyber Crime Police Station,
Kancheepuram – 631 501

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the respondents not to harass the petitioner.

For Petitioner : Mr.D.S.Ravi Kumaar

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Criminal Side)



Crl.O.P.No.25758 of 2023

ORDER

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Petitioner herein is before this Court alleging that, respondent police is harassing him based on the complaint given by one Selva Kumar alleging that he has been cheated Rs. 5,00,000/- promising franchise.

2. The learned counsel for the petitioner submitted that, respondent police even without conducting any enquiry had instructed the Banker to freeze the account and thereafter caused summons to the petitioner to forcibly extract the money.

3. The learned Government Advocate (Crl. Side) submitted that, complaint of one Selva Kumar was taken for enquiry under C.S.R.No.705 of 2023 dated 27.07.2023. Pursuant to that, summons under Section 91 of Cr.P.C was caused to the petitioner for his appearance on 14.08.2023. Petitioner did not appear for enquiry. Thereafter, FIR was registered on 05.09.2023 in Crime No.23 of 2023 and investigation is taken up.



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4. This Court finds that, even before causing summons to the petitioner herein for appearance on the enquiry based on the complaint given by Selva Kumar and registered in C.S.R.No.705 of 2023, the Cyber Crime Police, Kacheepurram has instructed the Nodal Officer, Karur Vysa Bank to freeze the account of the petitioner through communication dated 28.07.2023. Thereafter, summons to the petitioner been issued under Section 91 of Cr.P.C. Since, it is alleged that, he did not appear for enquiry, FIR been registered on 05.09.2023.

5. The sequence of event thus make clear that, on the petition dated 27.07.2023 given by one Selva Kumar, Investigating Officer even without registering the FIR as per Section 154 of Cr.P.C., had instructed the Nodal Officer of Karur Vysya Bank to freeze the account of the petitioner. Only thereafter, a thought fit to call for explanation from the petitioner /suspected accused. Since, the petitioner did not turn up for enquiry, FIR been registered. Hence, this Court is able to see the dubious design of the Investigating Officer to put the petitioner under pressure and forced him to come to terms. Therefore, he first freezed his account and summoned him for appearance and when he having refused to appear for enquiry, FIR been



registered. Hence, there is merit in the petition seeking direction not to harass.

6. The learned counsel for the petitioner submits that, petitioner is ready to appear for enquiry before the Investigating Officer, provided he is not subject to any harassment.

7. This Court had come across similar type of investigations by some of the Police Officers who first cripple the financial activity of the suspected accused by requesting the Bankers to freeze the accounts and thereafter commence the investigation. Being a very serious violation of fundamental right, this Court is of the view that, this issue shall be placed before the Director General of Police and appropriate instruction to be given to the Police Officials while exercising their discretion to request the Banking Authority to freeze the account. As far as this case is concerned, Director General of Police shall appoint an appropriate Investigating officer and transfer the investigation to him.



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Crl.O.P.No.25758 of 2023

8. Regarding the freezing of account, the said Investigating Officer shall take appropriate decision whether to defreeze or not. The said transfer of investigation and decision about the defreezing of the petitioner's account shall be taken within a period of fifteen days from the date of receipt of copy of the order.

9. With the above observations and directions, this Criminal Original Petition is disposed of.

10.11.2023

Index : Yes/No

Neutral Citation : Yes/No

Sma

To

1. The Superintendent of Police,
Kancheepuram District,
Kancheepuram – 631 502.

2. Inspector of Police,
Cyber Crime Police Station,
Kancheepuram – 631 501

3. The Public Prosecutor,
High Court of Madras,
Chennai.

5/6



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Crl.O.P.No.25758 of 2023

Dr.G.JAYACHANDRAN,J.

Sma

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