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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

**CrI.O.P Nos.7308, 7325, 7195, 7311, 7316,
7320, 7330, 7332 and 7348 of 2024**

CrI.O.P.No.7308 of 2024

Mr.Amaladas Rajesh

Petitioner

vs.

1.The State Rep. by
The Inspector of Police,
CB-CID North-Kancheepuram,
Kancheepuram District.
(Crime No.5 of 2021)

2.The Branch Manager,
ICICI Bank Limited,
Ambattur Industrial Estate Branch,
G11, 1st Main Road,
Ambattur Industrial Estate,
Chennai – 600 058.

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to defreeze NRO Saving Bank Account No.060701075434 of the Petitioner, being maintained with the 2nd respondent bank/ICICI Bank Limited, Ambattur Industrial Estate Branch, which was frozen by the 1st respondent in Crime No.5 of 2021, consequently direct the 2nd respondent bank to permit me to operate my above NRO Saving bank account.



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For Petitioner : Mr.M.Palanivel

in all CrI.O.Ps

For Respondents : Mr.A.Damodaran

in all CrI.O.Ps Additional Public Prosecutor for R1

ORDER

The issue involved in all these four criminal original petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.The petitioners in all these petitions have sought for a direction for de-freezing the current account maintained by the petitioners in the 2nd respondent Bank.

3.Heard Mr.M.Palanivel, learned counsel appearing on behalf of the petitioners and Mr.A.Damodaran, learned Additional Public Prosecutor appearing on behalf of the respondents.

4.The 1st respondent police was investigating a case in Crime No.5 of

2021. On examining the witnesses and recording their statements and after



collecting the relevant documents during the course of investigation, the 1st respondent found that the accused persons are maintaining twenty three accounts and a total amount of Rs.1,76,290.98/- was available in these bank accounts. In a connected criminal original petition in CrI.O.P.No.29168 of 2022, a counter was also filed by the 1st respondent giving the details of the twenty three bank accounts that were frozen pending the investigation. Out of those twenty three bank accounts, the four bank accounts that are covered in these four petitions also forms part. In the counter affidavit itself, it has been stated that Section 102 of Cr.P.C., was complied with only on 30.11.2022, by reporting the freezing of accounts to the learned Judicial Magistrate No.I, Chengalpattu. The freezing of accounts had taken place in these petitions on 03.08.2022, 04.08.2022, 05.08.2022, 20.08.2022, 24.08.2022 and 30.09.2022 respectively. Admittedly, the same was not intimated to the concerned Court as mandated under Section 102 of Cr.P.C.,

5.The issue that is involved in the present case is squarely covered by the earlier order passed by this Court in CrI.O.P.Nos.15894 etc., of 2020, dated 11.01.2021. The relevant portions are extracted hereunder:

7. Freezing of Bank Accounts has been held to fall within

the purview of Section 102 of Code of Criminal Procedure since



the Bank Account is treated to be a moveable property. Where the Bank Account is freezed without notice to the concerned person and report is not immediately sent to the jurisdictional Magistrate Court, the freezing of Bank Accounts gets vitiated and the same requires the interference of the Court.

8. Useful reference can be made to the judgment of the Honourable Supreme Court in the case of **State of Maharashtra Vs. Tapas D. Neogy** reported in 1997 (7) SCC Page 685. This Court has also taken into account the judgment of this Court in the case of **T. Subbulakshmi and another vs. The Commissioner of Police, Chennai-8 and others** reported in 2016 (2) MWN (Cr.) 411.

9. In the present case, the Bank account has been frozen without notice to the petitioner and without a report submitted to the Magistrate. In fact, the intimation has been given to the Magistrate only last week well after the present petition was filed before this Court in the month of September 2020. Therefore, the action on the part of the respondent police in freezing the Bank accounts maintained before the 2nd respondent Bank is completely vitiated and it is unsustainable in the eyes of law.

10. In view of the above, this Court has no hesitation to order for the defreezing of the accounts of the petitioners maintained before the 2nd respondent Bank forthwith. If the respondent police, in the course of investigation, want to freeze the



Bank Accounts, mandatory requirements as provided under section 102 Cr.P.C and the law on the issue will have to be strictly complied with.

6. These criminal original petitions can also be disposed of in terms of the above order.

7. The 1st respondent is directed to defreeze the bank accounts of the petitioners maintained before the 2nd respondent Bank forthwith. If the 1st respondent, in the course of investigation, wants to freeze the bank account, the mandatory requirement as provided under Section 102 of Cr.P.C., shall be followed and shall be strictly complied with.

8. Accordingly, these criminal original petitions are allowed.

28.03.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
SSR

Note: Issue Order Copy on 01.04.2024



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N. ANAND VENKATESH., J.

SSR

To

1. The Inspector of Police,
CB-CID North-Kancheepuram,
Kancheepuram District.
2. The Public Prosecutor,
High Court of Madras,
Madras.

**Crl.O.P Nos.7308, 7325, 7195, 7311, 7316,
7320, 7330, 7332 and 7348 of 2024**

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