



WEB COPY



W.P.No.11541 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.11541 of 2024

P. Moorthi

... Petitioner

Vs.

1. State Represented by,
The Inspector of Police,
R-11, Ramapuram Police Station,
Ramapuram District.

2. The Manager,
Indian Overseas Bank,
Virugampakkam Branch,
Chennai – 92.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Mandamus, to direct the respondents to Defreeze the Current Account No.Savings Account No.028901000026037 maintained by the 2nd respondent in pursuant to his representation dated 28.03.2024.

For Petitioner

: Mr.P.Muthamizhselvakumar

For R1

: Mr.S.Vinothkumar
Government Advocate (Crl.side)



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ORDER

The writ of mandamus has been instituted to direct the respondents to de-freeze the Savings Account No.028901000026037 maintained by the petitioner at the 2nd respondent/Bank.

2. The son of the petitioner has been arrested by the 1st respondent/police in Crime No.397 of 2023 under Section 276, 294(b), 353, 506 (ii) of IPC.

3. Pursuant to the letter submitted by the 1st respondent/police, the 2nd respondent/Bank froze the bank account of the petitioner, who is none other than the father of the accused, who was arrested in connection with the criminal case. The Police, during investigation found that the proceeds of Crime have been deposited in the Bank Account and therefore, accounts are to be frozen for the purpose of conducting further investigation in to the crime.

4. Question arises, whether writ petition is maintainable under Article 226 of Constitution of India or not?



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5. Admittedly, the Bank Account has been freezed on account of registration of criminal case and further, during investigation, the Police found that the proceeds of crime have been invested in the Bank Account. Therefore, the proceeds of crime, which all are the material objects required for the purpose of conducting criminal trial before the competent Court of law. In the event of exercise of powers of judicial review under Article 226 of constitution of India, if such goods, accounts etc., are involved in a proceeds of crime is released by writ court, then the criminal court may not be in a position to take a decision and conduct trial in accordance with law.

6. Any attempt made by any person to weaken or dilute the criminal proceedings at no circumstances be permitted by the writ court. Once a criminal case has been registered and proceeds of crime or the bank account etc., freezed are to be dealt with by the competent criminal court of law under the provisions of Code of Criminal Procedure. Provisions are made available for return of property under the Code of criminal procedure. Thus, the aggrieved person is always at liberty to approach the jurisdictional criminal court for return of property or for any other incidental relief thereto.



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7. Contrarily, they cannot file a separate writ proceedings under Article 226 of Constitution of India to de-freeze the Bank Account. In the present case, it would undoubtedly hamper the criminal investigation to be undertaken by the investigating agency. No writ is entertainable in such circumstances. The parties are to be relegated to approach the criminal court of law for securing relief by following the due process. This being the legal principles to be adopted, writ petitions to de-freeze the bank account or to return of property, during pendency of criminal case are not maintainable under Article 226 of Constitution of India.

8. With these observations, the writ petition stands **dismissed** at the admission stage itself. No costs.

29.04.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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S.M.SUBRAMANIAM,J.

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