



CrI.RC.No.1029 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2024

CORAM:
THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

CrI.RC.No.1029 of 2024

Mirza Mohammed Imran

...Petitioner

Vs.

1. State by Inspector of Police,
Cyber Crime Division – I,
Chennai East,
In Cr.No.28 of 2023.

2. The Yes Bank Limited,
Kanjurmarg Branch,
Brahmakshatriya Panchayat Trust,
1294 2 Kanjur Village Road,
Near Railway Station East,
Kanjurmarg,
Maharashtra – 400 042.

3. The ICICI Bank Limited,
Udaipur Branch,
2, Jain Rishabh Bhawan,
Bapu Bazar, Udaipur,
Rajasthan – 313001.

...Respondents

PRAYER: Criminal Revision case filed under Section 397 r/w.401 of Code
of Criminal Procedure against the impugned order dated 14.03.2024 in



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Crl.M.P.No.33642 of 2023 passed by the learned Additional Metropolitan Magistrate, Egmore, Chennai, as illegal and consequently restore the petitioner in Crl.M.P.No.33642 of 2023.

For Petitioner : Mr.B.Krishore

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Revision petition has been filed against the impugned order dated 14.03.2024 in Crl.M.P.No.33642 of 2023 passed by the learned Additional Metropolitan Magistrate, Egmore, Chennai, as illegal and consequently restore the petitioner in Crl.M.P.No.33642 of 2023.

2. It is the case of the petitioner that he is a victim of cyber fraud and has suffered financial losses to a tune of Rs.1,66,500/-. In the precise terms, under the guise of providing incentives and jobs, the online fraudsters have extracted monies from the petitioner. However, on subsequent demands of money, the petitioner lodged a complaint, pursuant to which the first respondent has registered a case against the unknown persons in Crime No.28 of 2023 on 25.07.2023 for the offences u/s.420 of IPC and Section 66



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of the IT Act, 2008. Thereafter, the bank accounts held by the petitioner in the second and third respondent's Bank, to which the petitioner was asked to transfer the monies, were freezed by the first respondent. In order to retrieve the monies, the petitioner has filed a petition u/s.451 of Cr.P.C. before the learned Additional Metropolitan Magistrate Court, Egmore in Crl.M.P.No.33642 of 2023 seeking a direction to the respondents 2 and 3 to refund the monies paid by the petitioner to his bank account, and the same was subsequently dismissed vide order dated 14.03.2023 on the ground that the petitioner has not taken any steps to appear before the trial Court eventhough several opportunities were given to him. Challenging the same, the petitioner is in this Criminal Revision Petition.

3. The learned counsel for the petitioner submits that though the notice was not served on the petitioner, the trial Court erred in passing the impugned order as if the petitioner or his counsel have not taken any steps to appear before it, which is in violation of principles of natural justice.

4. The learned Government Advocate appearing for the first



respondent submits that though the investigation is still pending, the petitioner has filed a petition u/s.451 of Cr.P.C. before the trial Court seeking to refund the monies paid by the petitioner which is per se unsustainable. Hence, the trial Court has rightly dismissed the said petition as the petitioner has not provided sufficient clarification with regard to the objection raised by the third respondent Bank. Accordingly, he prayed to dismiss this petition.

5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. Admittedly, investigation is still pending. Though the monies belonging to the petitioner, lying in his Bank Accounts have been freezed, however, during the pendency of the investigation, the said bank Accounts cannot be de-freezed as the same would affect the prosecution case. More so, though several opportunities were given to the petitioner, he has neither chosen to appear before the trial nor his counsel represented on his behalf. Upon considering all those aspects the trial Court has rightly dismissed the



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petition filed by the petitioner u/s.451 of Cr.P.C. which cannot be interfered with. However, it is open to the petitioner to file a petition seeking recovery of money after the charge sheet has been filed.

7. With the above observation, this Criminal Revision Petition is dismissed.

20.06.2024

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Index : Yes/No

Speaking order : Yes/No

NCC : Yes/No

To

1. Additional Metropolitan Magistrate, Egmore, Chennai

2. Inspector of Police,
Cyber Crime Division – I,
Chennai East,
In Cr.No.28 of 2023.

3. The Public Prosecutor,
Madras High Court,



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M.DHANDAPANI, J.

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