



W.P.No.16720 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	10.07.2024
Pronounced on	12.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.16720 of 2024

Balasubramaniam Sriram

...Petitioner

Vs.

1.The Directorate of Enforcement,
Government of India,
Rep. by its Joint Director,
Chennai Zonal Office,
No.2, 5th & 6th Floors,
BSNL Administrative Building,
Kushkumar Road, Nungambakkam,
Chennai – 600 034.

2.The Assistant Director,
Directorate of Enforcement,
No.2, 5th & 6th Floors,
BSNL Administrative Building,
Kushkumar Road, Nungambakkam,
Chennai – 600 034.

3.Axis Bank Ltd.,
113, G.N.Chetty Road,
T.Nagar, Chennai – 600 017.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and/or 2, forthwith, to defreeze the petitioner's fixed deposit accounts in number 1.923040089003897, 2.923040089002124, 3.923040089003143 maintained with the 3rd respondent.

For Petitioner : Mr.S.R.Rajagopal,
Senior Counsel
for Mr.V.Arunkumar

For R1 & R2 : Mr.N.Ramesh,
Special Public Prosecutor

ORDER

M.S.RAMESH,J.

The petitioner herein, who claims to be the founder, promoter and one of the directors of M/s.Ocean Lifespaces India Private Limited, has filed this Writ Petition, seeking for a direction to the 1st and 2nd respondents to defreeze his three fixed deposit accounts maintained with the 3rd respondent herein, predominantly on the ground that the Enforcement Case Information Report (ECIR) registered by the 1st respondent herein has been quashed by this Court, through orders passed in W.P.No.3894 of 2024, dated 02.04.2024 and since there is no other ongoing investigation by the 1st and



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2nd respondents herein, the attachments of these bank accounts cannot be legally sustained.

2. Some of the relevant facts involved in the case are that the petitioner had lodged a complaint before the Commissioner of Police, Vepery, on 12.04.2023, which came to be closed, through a closure report dated 19.05.2023, by the Inspector of Police, EDF-II, Team-II, Central Crime Branch-1, Chennai. Thereafter, the petitioner had filed a petition in Crl.M.P.No.23359 of 2023 under Section 156 Cr.P.C. before the concerned Magistrate and the same was allowed. On 14.08.2023, an FIR in Crime No.201 of 2023 was registered against three persons. Pending the investigation, on 17.08.2023, a settlement agreement was entered into between the petitioner and the accused, based on which, Crime No.201 of 2023 came to be quashed by a learned Single Judge of this Court, through orders passed in Crl.O.P.No.26975 of 2023, dated 07.02.2024. Consequently, the FIR came to be closed by the trial Court on 15.02.2024. In the meantime, the 2nd respondent herein had registered ECIR/CEZO-I/03/2024, which order also came to be quashed by this Court, through



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orders passed in W.P.No.3894 of 2024, dated 02.04.2024. In view of quashing of the scheduled offences, as well as the ECIR proceedings before the 2nd respondent herein, orders were passed by this Court in W.P.No.10028 of 2024, dated 15.04.2024, de-sealing the office-cum-residence of the petitioner.

3. However, in the meantime, the 2nd respondent had already sent an e-mail on 29.01.2024, advising the 3rd respondent-Bank to refrain from disbursing funds in the petitioner's three fixed deposit account numbers (1)923040089003897, (2)923040089002124 and (3)923040089003143. In view of the subsequent quashing of both the scheduled offences, as well as the ECIR proceedings, the petitioner had requested the 1st and 2nd respondents to defreeze the fixed deposit accounts, to which there was no response and hence, had prompted the petitioner to file the present Writ Petition.

4. The learned Senior Counsel appearing for the petitioner would submit that in view of the quashing of the proceedings for the scheduled



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offences, as well as the proceedings under the Prevention of Money Laundering Act (PMLA) under the provisions of the PMLA, the attachment of the fixed deposit accounts cannot be legally sustained.

5. The learned Special Public Prosecutor appearing for the 1st and 2nd respondents had not disputed the fact that both the proceedings for the scheduled offences, as well as the proceedings under the PMLA, have been quashed.

6. The fact that there is no scheduled offence under investigation or pending trial and the quashing of the ECIR proceedings would reveal that the money under the three fixed deposit accounts of the petitioner cannot be termed as 'proceeds of crime', as defined under Section 2(1)(u) of the PMLA.

7. Section 8(6) of PMLA provides, among other, that when the attached property is not involved in money laundering, it shall order release of such property to the person entitled to receive. Thus, when the attached fixed deposit accounts have not been established as proceeds of crime and



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no case for the schedules offences or under the PMLA are pending, the 1st and 2nd respondents are duty bound to forthwith release the attached properties. In the light of this finding, the petitioner would be entitled to succeed in this Writ Petition.

8. For all the foregoing reasons, there shall be a direction to the respondents 1 and 2 to forthwith defreeze the petitioner's fixed deposit accounts 1.923040089003897, 2.923040089002124, 3.923040089003143 maintained with the 3rd respondent-Bank, within a period of one (1) weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs.

[M.S.R.,J.] [S.M.,J.]
12.07.2024

Index:Yes
Neutral Citation:Yes
Speaking order

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Note: Issue order copy on 15.07.2024



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To
WEB COPY

1. The Joint Director,
Directorate of Enforcement,
Government of India,
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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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Pre-delivery order made in
W.P.No.16720 of 2024

12.07.2024