IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.16888 of 2023

K.P.Ravikumar ... Petitioner

Vs.

1.State rep by
Inspector of Police,
CCB, EDF-II, TEAM-37,
Vepery, Chennai – 07
Cr.No.110 of 2019

2.K.Mariappan ... Respondents

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records pertaining to the Crl.M.P.8315 of 2022 and set aside the impugned order dated 26.04.2023 in Crl.M.P.No.8315 of 2022 in C.C.No.8245 of 2021 pending on the file of the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai and direct the respondent police to de freeze the operations in the two bank accounts of the petitioner i.e., A/c.No.005900135786195001 maintained at Catholic Syrian Bank, Purasaiwakkam Branch, Chennai therein Rs.27,72,128 is lying and A/c.No.30315657820 maintained at State Bank of India, Chrompet Branch, Chennai therein Rs.8,96,892 is lying.

For Petitioner : Mr.M.Guru Prasad
for M/s.R.Sathish Kumar

For Respondents : Mr.A.Gopinath for R1
Government Advocate (Crl. Side)
Mr.T.Sundaravadanam for R2

O R D E R

This criminal original petition has been filed seeking to set aside the order dated 26.04.2023 in Crl.M.P.No.8315 of 2022 in C.C.No.8245 of 2021 pending on the file of the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai and to direct the respondent police to de freeze the operations in the two bank accounts of the petitioner i.e., A/c.No.005900135786195001 maintained at Catholic Syrian Bank, Purasaiwakkam Branch, Chennai and A/c.No.30315657820 maintained at State Bank of India, Chrompet Branch, Chennai.

2.The petitioner is arrayed as accused in C.C.No.8245 of 2021 on the file of the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai. The petitioner filed Crl.M.P.No.8315 of 2022 in C.C.No.8245 of 2021 seeking direction to the first respondent to defreeze the petitioner's two bank accounts and the said petition was dismissed. Aggrieved by the same, the petitioner has filed this petition.

3.The learned counsel for the petitioner submitted that the allegation against the petitioner is that the petitioner canvassed the defacto complainant as if they were familiar with the bank officials and could arrange loan amount immediately from DHFL to fulfill the urgent need of the defacto complainant. Believing the same, the defacto complainant went to SRO, Mylapore, Chennai on 11.12.2015 under the impression that he was about to execute mortgage deed with DHFL for getting loan of Rs.7 Lakhs, however, the petitioner executed sale deed in his favour and then executed mortgage deed in favour of DHFL on the very same date and received the loan amount of Rs.55,11,688/- and cheated the defacto complainant.

4.The learned counsel for the petitioner further submitted that after execution of mortgage deed nearly Rs.52 Lakhs was released to the defacto complainant as per the sale proceeds and another Rs.13 Lakhs was transferred by way of RTGS to the defacto complainant's bank account, however, the defacto complainant suppressing all these facts lodged criminal complaint before the law enforcing agency. The learned counsel further submitted that the petitioner is involved in business activities and such huge amount has been freezed by the law enforcing agency which affects his business.

5.The learned Government Advocate (Crl. Side) submitted that the petitioner himself has submitted that the sale proceeds was released in favour of the defacto complainant only after obtaining loan from the DHFL. That itself shows that the petitioner has not paid the sale proceeds at the time of registration. He further submitted that all these issues can be decided only during trial and hence, during the pendancy of C.C.No.8245 of 2021, the amount lying in the two bank accounts of the petitioner which are freezed cannot be released in favour of the petitioner.

6.Considering the facts and circumstances of the case, this Court directs that the amounts lying in the two bank accounts of the petitioner namely, A/c.No.005900135786195001 maintained at Catholic Syrian Bank, Purasaiwakkam Branch, Chennai and A/c.No.30315657820 maintained at State Bank of India, Chrompet Branch, Chennai, shall be converted as interest bearing fixed deposit in the name of C.C.No.8245 of 2021 on the file of the learned

CCB/CBCID Metropolitan Magistrate, Egmore, Chennai. Thereafter, the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai, shall permit the petitioner to operate the two bank accounts namely, A/c.No.005900135786195001 maintained at Catholic Syrian Bank, Purasaiwakkam Branch, Chennai and A/c.No.30315657820 maintained at State Bank of India, Chrompet Branch, Chennai, with nill balance.

7.This criminal original petition is disposed of on the above terms.

10.07.2024

pri

Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The CCB/CBCID Metropolitan Magistrate,
Egmore, Chennai.

2.The Inspector of Police,
CCB, EDF-II, TEAM-37,
Vepery, Chennai – 07
Cr.No.110 of 2019

M.DHANDAPANI,J.
pri

Crl.O.P.No.16888 of 2023

10.07.2024