IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.1913, 1915, 1919 and 1922 of 2024

Crl.OP No.1913 of 2024

Nishanth Reddy Bezawada ...Petitioner in all Crl OPs

Vs

1. State rep. By
   Inspector of Police
   J-10, Semmancherry Police Station (CCB, TMB),
   Chennai.

2.The Branch Manager
YES Bank,
R.A.Puram Branch,
Ground Floor, 11/23, 2nd Main Road
Raja Annamalai Puram
Chennai – 28. ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to direct the respondent to de-freeze the bank accounts held in the name of Mr.Kamaraj in the 2nd respondent Bank and transfer the sum of Rs.18,50,000/- along with interest accrued on the respective savings bank account, to the Petitioner's Bank Account

No.50100044440108 held with HDFC Bank, IFSC CodeLHDFC0002083 or pass such orders.

Crl OP No.1915 of 2024

Nishanth Reddy Bezawada ...Petitioner

Vs

1. State rep. By
   Inspector of Police
   J-10, Semmancherry Police Station (CCB, TMB),
   Chennai.

2.The Branch Manager
IDFC First Bank,
Thiruvanmiyur Branch
TS No.22/7, No.54, Ground Floor, Block No.36
East Coast Road, Thiruvanmiyur
Chennai – 41. ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to direct the respondents to de-freeze the bank accounts held in the name of M/s.MMM Enterprise, in the 2nd respondent Bank and transfer the sum of Rs.19,00,000/- along with interest accrued on the respective savings bank account, to the Petitioner's Bank Account No.50100044440108 held with HDFC Bank, IFSC CodeLHDFC0002083 or pass such orders.

Crl OP No.1919 of 2024

Nishanth Reddy Bezawada ...Petitioner

Vs

1. State rep. By
   Inspector of Police
   J-10, Semmancherry Police Station (CCB, TMB),
   Chennai.

2.The Branch Manager
IDFC First Bank,
Velachery Branch,
No.6/1, Anand Garden, Gangai Nagar
Bypass Road, Velachery,
Chennai – 42. ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to direct the respondents to de-freeze the bank accounts held in the name of Mr.Durap Basha and Mr.Fazal Ahmed, in the 2nd respondent Bank and transfer the sum of Rs.94,10,000/- along with interest accrued on the respective savings bank account, to the Petitioner's Bank Account No.50100044440108 held with HDFC Bank, IFSC CodeLHDFC0002083 or pass such orders.

Crl OP No.1922 of 2024

Nishanth Reddy Bezawada ...Petitioner

Vs

1. State rep. By
   Inspector of Police
   J-10, Semmancherry Police Station (CCB, TMB),
   Chennai.

2.The Branch Manager
IDFC First Bank,
Purasawalkam Branch
No.92A, Block No.1, Ground Floor
Vepery, Dr.Alagappa Road
Purasawalkam, Chennai – 84. ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to direct the respondents to de-freeze the bank accounts held in the name of M/s. Murugan Traders and BKS & Co., in the 2nd respondent Bank and transfer the sum of Rs.48,83,455/- along with interest accrued on the respective savings bank account, to the Petitioner's Bank Account No.50100044440108 held with HDFC Bank, IFSC CodeLHDFC0002083 or pass such orders.

For Petitioner in all OPs : Mr.P.V.Balasubramanian, Senior Counsel for Mr.J.Lenin

For Respondents in all OPs : Mr.A.Damodaran Additional Public Prosecutor

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ORDER

All these Criminal Original Petitions have been filed seeking for a direction to the respondent police to de-freeze the bank accounts maintained by various persons in the 2nd respondent bank in each petition and for a consequential direction to transfer the amount lying in the 2nd respondent bank to the respective savings bank account of the petitioner.

2. Heard Mr.P.V.Balasubramanian, Senior Counsel, for Mr.J.Lenin, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor, for respondents.

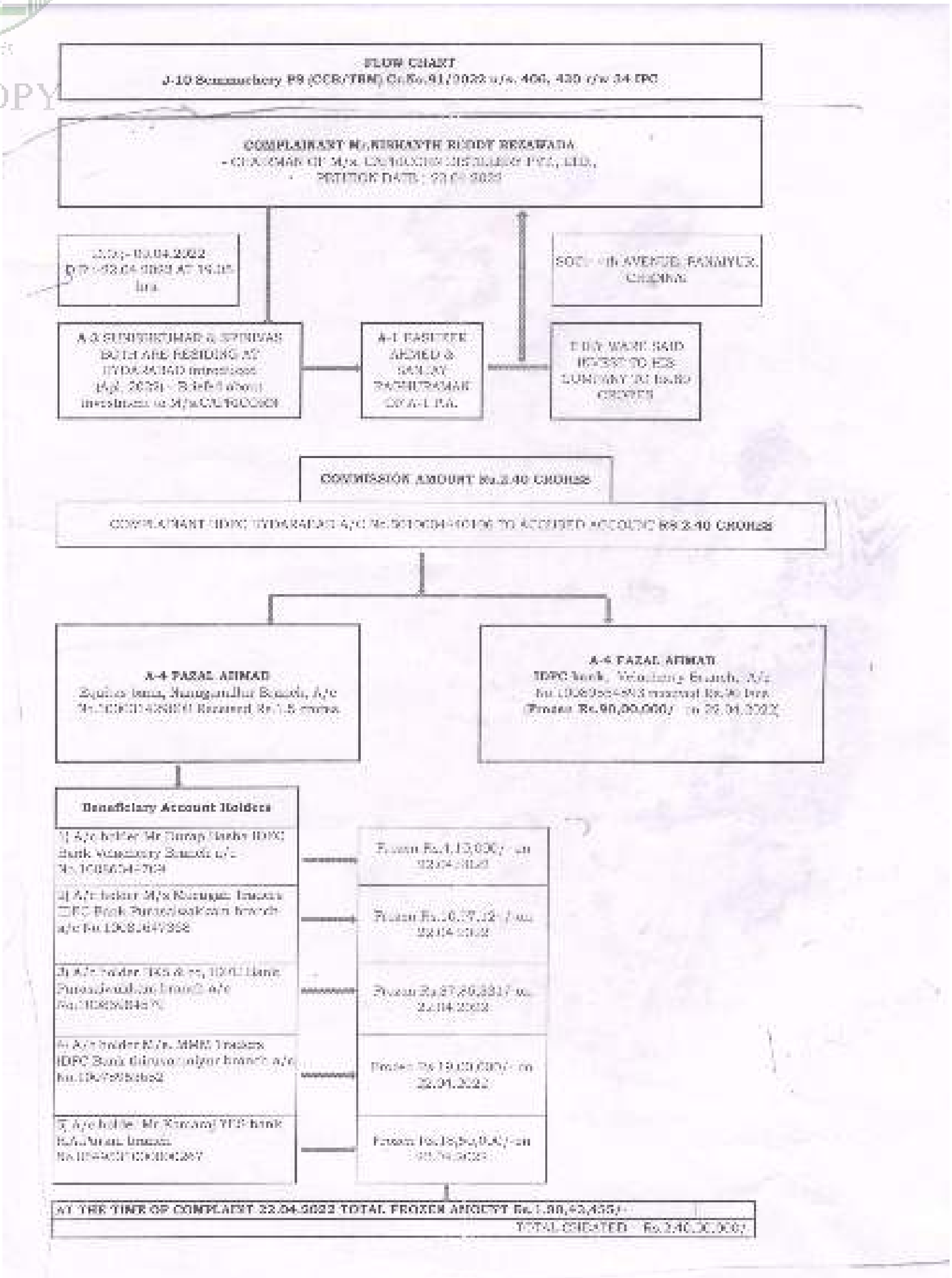
3. The petitioner is the defacto complainant who gave a complaint to the effect that the petitioner was promised to be extended a loan of a sum of Rs.80 Crores. After due diligence, the petitioner was asked to pay a sum of Rs.2.4 Crores as an advance and it was agreed to be adjusted towards the interest that is payable on the loan being lent to the petitioner. The petitioner believing the words of the accused persons transferred a sum of Rs.2.4 Crores to two separate accounts of one Fazal Ahamed. The petitioner was also awaiting for the loan amount of Rs.80 Crores to be credited into his bank account. To the shock and surprise of the petitioner, he came to understand that he has been cheated and that the entire transaction was a scam which was orchestrated by one Basheer Ahamed and others. The petitioner was insisting for the repayment of 2.4 Crores which was given by him as advance and it was not repaid back and in turn the petitioner was threatened.

4. The petitioner gave a complaint in this regard to the Assistant Commissioner of Police, CCB, Tambaram Commissionerate. Immediately

steps were taken by registering an FIR in Crime No.91 of 2022.

5. It is the further case of the petitioner that during the course of investigation, it was seen that the money was transferred to the bank account of various persons and it was identified by the police and all those bank accounts were also freezed. In view of the same, the petitioner also filed applications before the Magistrate Court seeking for de-freezing of the bank account and to transfer the amount to the account of the petitioner. These applications were not entertained on the ground that the Magistrate cannot order for de-freezing of the bank account. Left with no other option, these Criminal Original Petitions have been filed before this Court seeking for appropriate directions.

6. When the matter came up for hearing, the learned Additional Public Prosecutor submitted a flow chart which contains the details as to how the amount received from the petitioner was transferred to various bank accounts. On going through the same, it is clear that out of the sum of Rs.2.4 Crores, the police was able to identify and trace the transfer of amounts to various bank account to the tune of Rs.1.84 Crores. For proper appreciation, the flow chart that was submitted before this Court is extracted hereunder :-


FLOW CHART
J-10 Semmancheri PS (CCB/TBM) Cr.No.91/2022 u/s. 406, 420 r/w 34 IPC
COMPLAINANT Mr.NISHANTH REDDY BEZAWADA
COMMISSION AMOUNT Rs.2.40 CRORES
A-4 FAZAL AHMAD
A-4 FAZAL AHMAD
(Frozen Rs.90,00,000/- on 22.04.2022
Beneficiary Account Holders
AT THE TIME OF COMPLAINT 22.04.2022 TOTAL FROZEN AMOUNT Rs.1,80,43,455/-
TOTAL CHEATED - Rs.2,40,00,000/-

7. The learned Additional Public Prosecutor further submitted that whenever the bank account was freezed, the same was intimated to the concerned Jurisdictional Magistrate Court immediately and that the police have complied with the mandate under Section 102 of Cr.PC.

8. In the considered view of this Court, the petitioner has been cheated by a group of persons on the ground that they will get him loan and by making such a false promise, the accused persons had managed to knock off 2.4 Crores from the petitioner. Fortunately, the police was able to trace the money flow to various bank accounts to the tune of Rs.1.84 Crores. The petitioner wants this amount to be transferred to his respective savings bank accounts. The flow chart that has been submitted before this Court also establishes that it is the money that was taken from the petitioner which was ultimately transferred to various bank accounts by the accused persons. The learned Additional Public Prosecutor submitted that the persons in whose bank accounts the money was transferred have also been added as an accused in this case. Therefore, it will be more appropriate for the petitioner to file an application before the Magistrate and seek for the directions.

9. In the light of the above discussion, liberty is granted to the petitioner to move an appropriate application before the learned Magistrate seeking for de-freezing of respective bank accounts and for transferring the amount in favour of the petitioner by way of return of property. While filing such application, the petitioner apart from adding the police as a respondent, shall also add the accused persons whose bank accounts has been freezed. The Magistrate Court shall afford an opportunity to all the concerned persons whose bank accounts have been freezed and shall pass orders strictly in accordance with law. This process shall be completed by the learned Magistrate within a period of eight weeks from the date of filing of fresh application by the petitioner.

10. These Criminal Original Petitions are disposed of with the above directions.

06.02.2024

Index : Yes/No
Speaking order:Yes/No
Neutral citation:Yes/No
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To

1. State rep. By
   Inspector of Police
   J-10, Semmancherry Police Station (CCB, TMB),
   Chennai.

2.The Public Prosecutor,
   High Court, Madras.

N.ANAND VENKATESH, J

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Criminal Original Petition No.1913, 1915, 1919 and 1922 of 2024

06.02.2024