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CrI.R.C.No.2180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 4/12/2024

C O R A M

THE HONOURABLE Mr.JUSTICE SUNDER MOHAN

CrI.R.C.No.2180 of 2024

S.Prema

...

Petitioner

Vs

1. State

rep. By The Inspector of Police
Cyber Crime Wing
Cyber Crime Branch
Tambaram City Police
Chennai 600 119.

2. The Branch Manager

IDFC First Bank Ltd
Ground Floor, G-5-6
Satkar Building, 79-80 Nehru Place
New Delhi 110 019.

3. The Branch Manager

Bandhan Bank Limited
Kankarabesna
West Bengal
Kolkata 700 055.

...

Respondents

PRAYER: Criminal Revision Case filed under Section 438 of Bharatiya

Nagaric Suraksha Sanhita, 2023 to set aside the order passed by the Judicial



CrI.R.C.No.2180 of 2024

Magistrate – I, Tambaram, in CrI.M.P.No.1322 of 2024 dated 15/10/2024

only in respect of the first condition more particularly directing the petitioner to furnish one surety for Rs.13,47,433/- as arbitrary and is in violation of Article 14 and 21 of the Constitution of India.

For petitioner	...	Mr.M.Erajasimhan
For respondents	...	Mr.S.Udaya Kumar Government Advocate (CrI. Side) for R.1

ORDER

This Criminal Revision challenges the condition imposed by the learned Judicial Magistrate No.I, Tambaram, while directing the return of cash which was lost by the petitioner pursuant to an act of cheating.

2. The petitioner had lodged a complaint before the first respondent Police stating that she was a victim of an on-line fraud and a sum of Rs.13,47,443/- was removed from her account pursuant to the said on line fraud.



3. The first respondent had frozen the accounts of the suspects under Section 102 of the Code of Criminal Procedure and thus, recovered the said sum.

4. The petitioner therefore, filed a petition under Section 503 of BNSS to transfer the amount frozen by the first respondent to the account of the petitioner.

5. The first respondent filed a counter stating that they have no objection for transfer of the amount from the amount of the suspect to that of the petitioner. Hence, the trial Court had allowed the petition filed by the petitioner inter alia on the following condition:-

“(i). The petitioner shall execute indemnity bond for Rs.13,47,443/- and furnish 1 surety for likesum and shall be willing to remit the same subject to outcome of the case.”

6. The petitioner is aggrieved by the condition to furnish surety for the sum of Rs.13,47,443/-. In a similar case, this Court had set aside the



condition to furnish surety in Crl.R.C.No.1774 of 2024. The relevant portion reads as follows:-

“The respondent Police have no objection for the amount to be handed over to the petitioner but the only apprehension is that in the event of accused being secured and charge sheet filed in the case and later, the accused makes claim of money, the same to be made available. For that reason an undertaking and bond can be executed by the petitioner.”

7. Since the petitioner is similarly placed, this Court is of the view that the petitioner can be directed to execute an indemnity bond as directed by the learned Judicial Magistrate No.I, Tambaram and also file an affidavit of undertaking that she would return the cash if so required during the course of trial. Hence, in view of the same, condition No.1 in so far as it relates to directing the petitioner to furnish surety for a sum of Rs.13,47,433/- is set aside and the other conditions imposed by the learned Magistrate shall remain unaltered.



Crl.R.C.No.2180 of 2024

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8. In the result, this Criminal Revision Petition is allowed and the order dated 15/10/2024 passed in Crl.M.P.No.1322 of 2024 by the learned Judicial Magistrate No.I, Tambaram is set aside, in so far as condition No.1 is concerned.

4/12/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No

To

1. The Judicial Magistrate – I, Tambaram
2. The Inspector of Police
Cyber Crime Wing
Cyber Crime Branch
Tambaram City Police
Chennai 600 119.
3. The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J

mvs.

Crl.R.C.No.2180 of 2024

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