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Crl.O.P.(MD)No.15241 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2024**

CORAM:

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

Crl.O.P.(MD) No.15241 of 2022

S.Jeyabharathi Subramani

... Petitioner

Vs.

1.The Assistant Commissioner of Police,
City Crime Branch,
Tirunelveli City,
Tirunelveli District.

2.The Branch Manager,
Tamil Nadu Mercantile Bank,
Ariyakualm Branch,
D.No.6/104-A. 3rd Street,
Teachers Colony,
Thirunelveli-Thoothukudi National Highway,
Thirunelveli,
Thirunelveli District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records to set aside the order in Crl.M.P.No.2216 of 2020 on the file of the learned Judicial Magistrate No.I, Tirunelveli in Crime No.14 of 2019 on the file of the respondent Police and consequently to direct the respondents to de-freeze the petitioner's account.

For petitioner

: Mr.C.Mayilvahana Rajendran



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For R-1

: Mr.B.Nambiselvan,
Additional Government Pleader

ORDER

This Criminal Original Petition has been filed seeking to set aside the order in Crl.M.P.No.2216 of 2020, dated 10.03.2020 on the file of the learned Judicial Magistrate No.I, Tirunelveli, in Crime No.14 of 2019 on the file of the first respondent Police and consequently to direct the respondents to de-freeze the petitioner's account.

2. The case of the petitioner is that the petitioner is the wife of Accused No.1 and her account has been frozen in view of the criminal case foisted against her husband.

3. The learned counsel appearing for the petitioner would submit that as per the prosecution case, the petitioner's husband has cheated one Mr.Lakshmikantha Reddy and Rama Anchineyalu for arranging loan to the tune of Rs.50,00,00,000/-, for which, he received a sum of Rs.1,17,00,000/- as commission from them. It is alleged that the petitioner has neither arranged the loan nor repaid the commission amount. Thereby, the victims filed a complaint before the first respondent Police, based on which, the first respondent Police has frozen



the account of the petitioner. Thereafter, the petitioner has filed an application to defreeze her Bank account. But, her application was rejected. Aggrieved over the same, the present petition has been filed before this Court. He would further submit that freezing the account maintained by the petitioner is not sustainable one and further, the respondent Police has not obtained permission for freezing the account within a period of thirty days. Hence, he prays for allowing the petition.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner's husband has received a sum of Rs.1,17,00,000/- as commission for arranging the loan to the tune of Rs.50 Crores, however, he has neither arranged the loan nor repaid the amount. He would further submit that the respondent Police has investigated the matter and filed a charge sheet before the learned Judicial Magistrate No.I, Tirunelveli in C.C.No.1915 of 2023. He would further submit that the petitioner is the wife of the accused and there are several transactions between the petitioner and her husband. The trial Court only at the time of trial has to find out whether the amount lying in the petitioner's account is the proceeds of crime or not? If the account is defreezed, then, there is no remedy available to the respondent Police to proceed with the investigation and hence, he vehemently opposed for allowing this petition.



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

6. It is seen that as per Section 105 of Cr.P.C., if the crime proceeds available on any of the accused, the respondent Police is entitled to freeze the account, however, in the present case, the petitioner is not an accused and the petitioner is only the wife of Accused No.1. When the person is not an accused and the amount lying in the petitioner's account has been deposited prior to the date of occurrence, it is a crime proceeds or not can be decided only during the time of investigation / trial. If the account is defreezed, the petitioner may take the amount and it would cause delay in processing the investigation. Thereafter, the respondent police has no remedy to proceed with the investigation.

7. In view of the above, this Court finds that the trial Court has rightly rejected the petitioner's case and accordingly, the Criminal Original Petition stands dismissed.

13.03.2024

Index : Yes/No
Internet : Yes/No
TSG



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To

- 1.The Judicial Magistrate No.I, Tirunelveli
- 2.The Assistant Commissioner of Police,
City Crime Branch,
Tirunelveli City,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

TSG

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