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Crl.O.P.(MD)No.19009 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2024**

CORAM:

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

Crl.O.P.(MD) No.19009 of 2022

1.Ruben Educational and Charitable Trust,
No.4/70A, Thadikkarankonam and Post,
Kanyakumari District-629 851,
through its Chairman.

2.R.Jharson

... Petitioners

Vs.

1.The Inspector of Police,
District Crime Branch,
Kanyakumari District.

2.The State Bank of India,
Thadikkarankonam Branch,
Main Road,
Thadikkarankonam,
Kanyakumari District,
through its Branch Manager

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to de-freeze the bank accounts of the petitioners (both in his name and in the name of Institution under his chairmanship) which were freezed on the request of the first respondent vide his letter dated 29.08.2022 in connection with Crime No.43/2022 on the file of the first



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respondent and intimated the petitioners through the second respondent's communication in SBI/GEN/THAD/2022-23/25 dated 16.09.2022 by set asiding the same.

For petitioner : Mr.M.P.Senthil

For R1 : Mr.S.Manikandan

Government Advocate (crl.side)

For Defacto complainant : Mr.T.Cibi Chakarburthy

ORDER

This Criminal Original Petition has been filed to de-freeze the bank accounts of the petitioners, which were freezed on the request of the first respondent, vide letter dated 29.08.2022, in connection with Crime No.43 of 2022 on the file of the first respondent Police, which was intimated to the petitioners through the second respondent's communication in SBI/GEN/THAD/2022-23/25 dated 16.09.2022, by set asiding the same.

2. The learned counsel appearing for the petitioners submits that the second petitioner is the Chairman of the first petitioner Institutions, namely, Ruben Educational and Charitable Trust, Ruben Matric Higher Secondary School, Ruben College of Arts and Science and Ruben



College of Education, Thadikkarankonam, Kanyakumari District. In order to manage the Educational Institutions, the first respondent Trust is maintaining four current accounts in the second respondent Bank and the second petitioner is also maintaining a savings bank account in his name in the second respondent Bank. The property in Survey No.605/19 with three stored building belongs to the second petitioner and one K.Muthaiyan approached the second petitioner and expressed his willingness to purchase the properties of the second petitioner. The second petitioner and Muthaiyan have entered into a sale agreement dated 05.02.2022 for a sale consideration of Rs.5,50,00,000/-. However, Muthaiyan has not performed his part of contract and did not complete the sale transaction. Instead of approaching the civil Court, Muthaiyan has lodged a false complaint against the second petitioner and his family members before the Superintendent of Police, Kanyakumari and the same was transferred to the first respondent Police and a case was registered in Crime No.43 of 2022 for the offence punishable under Sections 120B, 420, 294(b) and 506(1) IPC on 17.08.2022, without conducting any preliminary enquiry. Thereafter, the second petitioner and his family members moved anticipatory bail application before the trial Court and they were granted anticipatory bail. In the meanwhile, Muthaiyan has filed a suit in O.S.No.236 of 2022 on the file of the learned Additional



District and Sessions Judge, Padmanabhapuram, against the petitioner and his family members seeking specific performance. While so, the first respondent Police, without any necessity, has sent a communication to the second respondent to freeze the bank accounts of the first petitioner Institution and the second petitioner, at the instigation of Muthaiyan, pursuant to which, the second respondent has also freezed the bank accounts. Hence, this Petition has been filed.

3. The learned counsel appearing for the petitioners submits that it is purely a civil dispute between the second petitioner and Muthaiyan. Instead of approaching the civil Court, he has given a criminal complaint against the second petitioner and his family members before the first respondent Police and the first respondent Police, without any authority, registered the case and directed the second respondent to freeze the bank accounts of the first petitioner Institution and the second petitioner, at the instigation of Muthaiyan and consequently, the bank accounts of the petitioners were freezed, which is not sustainable one.

4. The learned counsel appearing for the defacto complainant submits that the second petitioner has committed a fraud of receiving huge amount for selling his property in favour of the defacto



complainant/Muthaiyan and the amount was not recovered and thereby, the defacto complainant made a complaint against the petitioner.

Therefore, the first respondent Police has rightly registered the case against the petitioners and freezed the bank account of the petitioners on the ground that the amount was deposited in the bank accounts of the petitioners.

5. From the submissions made by both sides, it reveals that the dispute between the second petitioner and Muthaiyan/defacto complainant is civil in nature, however, Muthaiyan has given a criminal case before the first respondent Police, and thereafter, Muthaiyan has filed a suit in O.S.No.236 of 2022 before the learned Additional District and Sessions Judge, Padmanabhapuram. When the suit is pending, Muthaiyan, instead of approaching the civil Court, has again approached the first respondent Police, pursuant to which, the bank accounts of the first petitioner Institution and the second petitioner were freezed, which is not sustainable one. The civil dispute cannot be converted into a criminal offence. Hence, this Court is inclined to set aside the impugned letter dated 29.08.2022 issued by the first respondent and accordingly, it is set aside. The second respondent Bank is directed to defreeze the bank accounts of the petitioners within a period of one week from the date of



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receipt of a copy of this order. However, the operation of the bank accounts of the petitioners is subject to the result of the civil suit filed by Muthaiyan.

6. Accordingly, this Criminal Original Petition is allowed.

04.03.2024

Index : Yes/No
Internet : Yes/No
ssb

To

- 1.The Inspector of Police,
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Kanyakumari District.
- 2.The State Bank of India,
Thadikkarankonam Branch,
Main Road,
Thadikkarankonam,
Kanyakumari District,
through its Branch Manager.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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