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Crl.O.P.(MD)No.19010 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.19010 of 2022

R.Jharsanya,
Proprietor,
Eminent Import and Export Company,
No.13A, 1st Floor, Ponthanpilavilai,
Azhagiamandapam,
Mulagumoodu Post,
Kanyakumari District.

... Petitioner

Vs.

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

2.The Axis Bank,
Nagercoil,
Thayammal Haris Towers,
No.42, Court Road,
Nagercoil.
(Opp. To Duthi Girls Higher Secondary School),
through its Branch Manager

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to de-freeze the bank account of the petitioner which was 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 respondent and intimated the petitioner through the second respondent's communication dated Nil by set asiding the same.



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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 account of the petitioner, which was 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 petitioner through the second respondent's communication dated Nil, by set asiding the same.

2. The learned counsel appearing for the petitioner submits that the petitioner is maintaining the current account in the second respondent Bank. The properties in Survey No.605/19 with three stored building belong to the petitioner's brother and one K.Muthaiyan approached the petitioner's brother and expressed his willingness to purchase the properties of her brother. The petitioner's brother 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 petitioner and her 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 petitioner and her 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's brother and her mother seeking specific performance. While so, the first respondent Police, without any necessity, has sent a communication to the second respondent to freeze the bank account of the petitioner, at the instigation of Muthaiyan, pursuant to which, the second respondent has also frozen the bank account of the petitioner. Hence, this Petition has been filed.

3. The learned counsel appearing for the petitioner submits that it is purely a civil dispute between the petitioner's brother and Muthaiyan. Instead of approaching the civil Court, he has given a



criminal complaint against the petitioner and her 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 account of the petitioner, at the instigation of Muthaiyan and consequently, the bank account of the petitioner was freezed, which is not sustainable one.

4. The learned counsel appearing for the defacto complainant submits that the petitioner's brother has committed a fraud of receiving huge amount for selling his property in favour of Muthaiyan/defacto complainant and the amount was not recovered and thereby, the defacto complainant made a complaint against the petitioner, her brother and her family members. Therefore, the first respondent Police has rightly registered the case against the petitioner and her family members and directed the second respondent to freeze the bank account of the petitioner, pursuant to which, the bank account of the petitioner was freezed.

5. From the submissions made by both sides, it reveals that the dispute between the petitioner's brother and Muthaiyan is civil in nature, however, Muthaiyan has given a criminal case before the first respondent



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Police, and thereafter, Muthaiyan has filed a suit in O.S.No.236 of 2022 on the file of 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 account of the petitioner was freezed. 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 account of the petitioner within a period of one week from the date of receipt of a copy of this order. However, the operation of the bank account of the petitioner 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



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Kanyakumari District.
- 2.The Axis Bank,
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Thayammal Haris Towers,
No.42, Court Road,
Nagercoil.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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