



WEB COPY



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W.P.(MD)NO.30952 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.30952 of 2023

N.Paneerselvam

... Petitioner

Vs.

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

2. The Branch Manager,
State Bank of India,
Alangudi Branch,
No.7, Thiruvalluvar Salai,
Alangudi, Pudukkottai District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to de-freeze the petitioner's savings bank A/c. No.37445617650 which has been put on “hold” at the instance of the first respondent so as to enable the petitioner to operate his accounts and for other reliefs.

For Petitioner : Mr.J.Lawrance

For R-1 : Mr.A.Albert James,
Government Advocate.

* * *

**ORDER**

Heard the learned counsel on either side.

2. The petitioner is figuring as an accused in Crime No.7 of 2021 on the file of the District Crime Branch, Pudukottai. His bank account was frozen. For de-freezing the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner relies on the decision reported in **2013 SCC Online Mad 2629 (T.Subbulakshmi V. Commissioner of Police)**. It was held therein as follows:-

“ 27.From the dictum laid down in the judgments relied on by the learned senior counsel for the petitioners it is clear that the bank account is a property within the meaning of Section 102 of Cr.P.C and sub-section (3) to Section 102 requires the reporting of seizure of the property to the concerned Magistrate forthwith, which is mandatory in nature. Moreover, the freezing of bank account is an act of the investigation and therefore, the duty is cast upon the Investigating Officer under Section 102(3) of Cr.P.C. to report the same to the Magistrate, since the freezure of the



bank account prevents the person from operating the bank account pursuant to an investigation by the Police in a criminal case registered against him. If there is any violation in following the procedures under Section 102 of Cr.P.C., the freezing of the bank account cannot be legally sustained. Since in the case on hand the 2nd respondent-Police has not reported the freezing of the bank accounts of the petitioners herein to the concerned Magistrate forthwith, which is mandatory under Section 102(3) of Cr.P.C., the proceedings of the 2nd respondent-Police in freezing of the bank accounts of the petitioners herein are not legally sustainable.”

4. I wanted to know from the first respondent herein, when the intimation was sent to the jurisdictional Magistrate. It was submitted that on 29.07.2021 itself communication was sent. The petitioner became aware of the same only in the year 2022.

5. The report was called for. The learned Judicial Magistrate, Pudukkottai vide communication dated 23.04.2024 addressed to the Registrar (Judicial) clarified that no such report was received from the



first respondent. I therefore have to necessarily hold that freezing of the petitioner's bank account has to be lifted. It is now stated that the petitioner has since been charge sheeted. The allegation made against the petitioner is fairly serious. The matter is pending trial in C.C.No.30 of 2022 on the file of the Judicial Magistrate No.II, Pudukottai. It is of course open to the jurisdictional Magistrate to take appropriate action as per law in this regard.

6. With this direction to the jurisdictional Magistrate, this writ petition stands allowed. No costs.

29.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

The Inspector of Police,
District Crime Branch,
Pudukkottai District,
Pudukkottai.

Copy to :

The Judicial Magistrate No.II,
Pudukkottai.



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G.R.SWAMINATHAN,J.

PMU

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