IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.3627, 1355, 1373 and 1349 of 2025

Crl.O.P.No.3627 of 2025

Vignesh Natarajan ... Petitioner

Vs

1. State Represented by
   The Inspector of Police,
   Central Crime Branch,
   Beta I, EDF I, Vepery, Chennai.
   (Cr.No.196 of 2024)

2. The Branch Manager,
   Deusche Bank AG,
   No.4-4A, Western Tower, Sunny Side,
   Shafi Mohammed Road,
   Thousnad Lights,
   Chennai – 600 006.

3. Sathish Kumar ... Respondents

Criminal Original Petition is filed under Section 528 of B.N.S.S., to direct the respondents herein to de-freeze the account of the petitioner bearing Account No.000041073230019, maintained with the second respondent Deustche Bank, Thousand Lights Branch, Chennai.

Crl.O.P.No.1355 of 2025

Vignesh Natarajan ... Petitioner

Vs

1. State Represented by
   The Inspector of Police,
   Central Crime Branch,
   Beta I, EDF I,
   Vepery, Chennai.
   (Cr.No.196 of 2024)

2. The Branch Manager,
   Deusche Bank AG,
   No.4-4A, Western Tower, Sunny Side,
   Shafi Mohammed Road,
   Thousnad Lights,
   Chennai – 600 006.

3. Sathish Kumar ... Respondents

Criminal Original Petition is filed under Section 528 of B.N.S.S., to direct the respondents herein to de-freeze the account of the petitioner bearing Account No.040041073230019, maintained with the second respondent Deustche Bank, Thousand Lights Branch, Chennai.

Crl.O.P.No.1373 of 2025

Vignesh Natarajan ... Petitioner

Vs

1. State Represented by
   The Inspector of Police,
   Central Crime Branch,
   Beta I, EDF I,
   Vepery, Chennai.
   (Cr.No.196 of 2024)

2. The Branch Manager,
   HDFC Bank,
   ITC Centre – Anna Salai Branch,
   759, ITC Centre, Anna Salai,
   Chennai – 600 002.

3. Sathish Kumar ... Respondents

Criminal Original Petition is filed under Section 528 of B.N.S.S., to direct the respondents herein to de-freeze the account of the petitioner bearing Account No.00048640000175, maintained with the second respondent HDFC Bank, ITC Centre, Anna Salai Branch, Chennai.

Crl.O.P.No.1349 of 2025

Vignesh Natarajan ... Petitioner

Vs

1. State Represented by

The Inspector of Police,
Central Crime Branch,
Beta I, EDF I,
Vepery, Chennai.
(Cr.No.196 of 2024)

2. The Branch Manager,
Yes Bank,
New Door No.31, Old Door No.15,
Bazullah Road, T.Nagar,
Chennai – 600 017.

3. Sathish Kumar ... Respondents

Criminal Original Petition is filed under Section 528 of B.N.S.S., to direct the respondents herein to de-freeze the account of the petitioner bearing Account No.041861900000830, maintained with the second respondent Yes Bank, T.Nagar Branch, Chennai.

For Petitioner in all Crl.O.Ps	:	Mr.P.H.Aravind Pandian, Senior Counsel for M/s.Surana and Surana
For Respondents in all Crl.O.Ps	:	Mr.K.M.D.Muhilan, Government Advocate (Crl.Side) (for R1) Mr.R.Vivekanandan for Mr.P.Sathiyanathan (for R3)

COMMON ORDER

These petitions have been filed for directing the respondents to defreeze the accounts of the petitioner, maintained with the second respondent.

2. Heard the learned counsel for both sides and perused the materials available on record.

3. On the complaint lodged by the third respondent, the learned Metropolitan Magistrate for CCB & CBCID Cases, Egmore, Chennai n Crl.M.P.No.47197 of 2024 directed the first respondent to register an FIR. In compliance with the order, the first respondent registered the First Information Report in Crime No. 196 of 2024 for the offences punishable under Sections 406, 420 read with Section 34 of IPC, as against the seven accused persons, in which the petitioner is arrayed as A2.

4. The case of the third respondent is that the complainants, Prasath Varadarajan and Srinivasan Ramkumar, are holding 10% each share and one Suresh Thekkedath Padmanabhan is holding 80% share in M/s. Cargo International (India) Private Limited. In the said company, the de-

facto complainants/Prasath Varadarajan and Srinivasan Ramkumar are the Directors of the Company and were involved in the day-to-day activities of the company till December 2018. The said Suresh Thekkedath Padmanabhan is the Director of Inter-Continental Logistics at the United Kingdom. He, arrayed as the first accused, was not letting M/s. Cargo International (India) Private Limited send any invoice to Inter-Continental Logistics, which was followed by M/s. Cargo International (India) Private Limited and as such, there was an outstanding amount to the tune of Rs.4.13 Crores to M/s. Cargo International (India) Private Limited.

4.1. Further, the shipment handled by CET India and CET Belgium, the invoices were raised by M/s. Cargo International (India) Private Limited. But the first accused informed the complainants to raise the invoice only for M/s. Cargo International (India) Private Limited and funds were to be received by M/s. Cargo International (India) Private Limited. In this regard, a sum of Rs. 5.45 Crores is receivable by M/s. Cargo International (India) Private Limited. The refusal of dividend to M/s. Cargo International (India) Private Limited, in this regard, there was a sum of Rs.40 lakhs receivable on the basis of the dividend.

4.2. Further, it is alleged that the first accused had drawn to the tune of Rs. 90 lakhs as salary. He used the Company Credit Cards and Debit Cards for his travel and accommodation expenses from January 2016 to November 2018 and thereby, there was a loss to the tune of Rs. 66 lakhs to M/s. Cargo International (India) Private Limited. Further, the dividend was not given to the shareholders and the same has not been determined yet. Therefore, there was a loss to the tune of Rs. 11.79 Crores to M/s. Cargo International (India) Private Limited, in which the de-facto complainants had a 20% share and they sustained a loss to the tune of Rs. 2.2 Crores. After directions were issued by the learned Magistrate, the petitioner was issued summons and he appeared before the first respondent for an enquiry and also submitted all the relevant documents. While the investigation was pending, the first respondent requested the second respondent to freeze the accounts of the petitioner's Company. Accordingly, the second respondent has frozen the accounts of the petitioner's Company and he is not permitted to operate his accounts.

5. The learned Senior Counsel appearing for the petitioner would

submit that a Company Petition has been filed by the first accused in C.P.No. 519 of 2019, as against the complainants, before the National Company Law Tribunal (NCLT), Chennai, alleging that the complainants are fully in-charge of M/s. Cargo International (India) Private Limited and they are involved in the day-to-day affairs of the Company. They misused the Company's funds and siphoned the Company's funds and committed oppression and mismanagement. After siphoning the funds, they started a separate company in the name of M/s. Aerotrans Global Forwarding (I) Private Limited. It is pending for adjudication. In order to escape from the said clutches of law, the present case has been registered as against the petitioner and others, and it is only a counter blast to the Company Petition filed by the first accused.

6. In fact, the third respondent had already lodged a complaint before the Inspector of Police, Nungambakkam Police Station and the same was registered in Crime No. 285 of 2022 for a similar set of allegations. In pursuance to the registration of the First Information Report, the petitioner's Company accounts had already been frozen by the Investigating Officer, alleging that he suffered a loss to the tune of Rs. 14,81,780/-. After

completion of the investigation, a charge sheet has been laid in the said crime number, and it is pending for trial in C.C. No. 1471 of 2023 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai. In fact, the petitioner has also filed a petition for direction to de-freeze the account and the same was allowed on the condition that the petitioner shall deposit the alleged loss to the tune of Rs. 14,81,780/- in Crl.O.P. Nos. 26083 and 26085 of 2022.

7. On a perusal of the counter-affidavit filed by the first respondent and the submission made by the learned Government Advocate (Crl. Side), it reveals that after registration of the First Information Report, the first respondent made a request to the second respondent to freeze the accounts of the petitioner and accordingly, it had been frozen and the petitioner is not permitted to operate the accounts. Now, the investigation is still pending. That apart, on the very same set of allegations, another complaint was lodged by the third respondent before the Inspector of Police, Nungambakkam Police Station and the same has been registered in Crime No. 216 of 2023 for the offences punishable under Sections 406 and 420 of IPC. In pursuance to the registration of the said FIR, another account of the

petitioner has also been frozen on the request made by the Investigating Officer. Therefore, the present complaint itself is nothing but a clear abuse of process of law. In fact, the third respondent straight away filed a private complaint and the same has been forwarded under Section 156(3) of Cr.P.C. On the direction issued by the Trial Court, the first respondent registered the First Information Report.

8. Further, on a perusal of the entire allegations, it reveals that the first accused had already filed the said Company Petition, C.P. No. 519 of 2019, as against the complainants before the National Company Law Tribunal, Chennai, and it is pending for adjudication. Thereafter, three complaints have been lodged as against the petitioner and others with the above-said allegations. Even as per the allegations of the third respondent, there is an outstanding amount to M/s. Cargo International (India) Private Limited and dividends were not determined yet. Further, the dividends were not given to the shareholders.

9. Moreover, the first accused had drawn salary from the Company's account. These are all the claims made by the third respondent. In fact, the third respondent is representing on behalf of the shareholders,

who are the complainants. If any claim is proved, then the complainants are entitled to their dividend or any profit. It is mere allegations as against the petitioner and others that the dividends were not decided yet and the dividends are not paid to them. One of the accused also had drawn salary from the Company's account. These allegations are all of a civil nature, and in fact, it is nothing but a counter blast to the Company Petition in C.P. No.519 of 2019 filed by the first accused for oppression and mismanagement. Further, the petitioner alleged that the complainants had siphoned the funds of the Company and started a separate company in the name of M/s. Aerotrans Global Forwarding (I) Private Limited.

10. Further, it is not the case of the third respondent that the crime proceeds were deposited in the petitioner's account. Therefore, the allegations levelled against the accused do not constitute any offence under Sections 406, 420 read with Section 34 of IPC as against the accused persons. Hence, mere registration of the First Information Report would not amount to all the allegations being proved. Even if the allegations against the accused persons are assumed to be true, and of such a nature, it is only a civil liability, and no offence is made out as against the accused persons.

Only after proving their claim, the complainants are entitled to the amount which is claimed by them. Therefore, the first respondent ought not to have frozen the accounts of the petitioner.

11. In view of the above, the accounts of the petitioner bearing Account Nos. 000041073230019, 040041073230019, 00048640000175, and 041861900000830 are hereby de-frozen. The petitioner is permitted to operate the said account numbers maintained with the second respondent forthwith.

12. With the above observations, these Criminal Original Petitions are allowed.

20.02.2025

Index:Yes/No
Neutral Citation/Yes/No
kv

To

1. The Inspector of Police,

Central Crime Branch,
Beta I, EDF I,
Vepery, Chennai.
(Cr.No.196 of 2024)

2. The Branch Manager,
Deusche Bank AG,
No.4-4A, Western Tower, Sunny Side,
Shafi Mohammed Road,
Thousnad Lights,
Chennai – 600 006.

3. The Branch Manager,
HDFC Bank,
ITC Centre – Anna Salai Branch,
759, ITC Centre, Anna Salai,
Chennai – 600 002.

4. The Branch Manager,
Yes Bank,
New Door No.31, Old Door No.15,
Bazullah Road, T.Nagar,
Chennai – 600 017.

5. The Public Prosecutor,
High Court of Madras,
Chennai.

G.K.ILANTHIRAIYAN, J.

kv

Crl.O.P.Nos.3627, 1355,
1373 and 1349 of 2025

20.02.2025