IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 34526 of 2024
and
W.M.P.Nos.37427 and 37428 of 2024

M/s.Adroit Solutions
Having office at No.405,
Anhil Swastik Society,
Swastik Cross Road, Navrangpura,
Ahmedabad,
Represented by its Proprietor
Mr.Shubham Kumar Damani. ... Petitioner

Vs.

1. State of Tamil Nadu,
The Inspector of Police,
Cyber Crime Cell,
Central Crime Branch,
Office of Tambaram Commissionerate,
Sholinganallur, Chennai.

2. ICICI Bank,
Rep.by its Branch Manager,
Shop No.4, 56, Radhe Kishan Arcade,
Near Vaidhav Hall, Ishanpur,
Ghodasar Highway, Ghodasar,
Ahmedabad, Gujrat – 380 050. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of

India, praying to issue a Writ of Certiorarified Mandamus, to call for the records that the action of respondent No.1 to issue the impugned notice of the Letter No.360/CCB/TBM/2023 dated 23.08.2023 for debit freezing the Bank account of the petitioner Company bearing No.231005501744 maintained with respondent No.2 is arbitrary illegal, bad in law, and quash the same insofar as the petitioner herein is concerned and also direct the respondents to unfreeze the bank account bearing No.231005501744 maintained with respondent No.2.

For Petitioner : Mr.B.Satish Sundar

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1
Mr.S.Krishnaa
for M/s.Acuity Law Associates
for R2

ORDER

This Writ Petition has been filed seeking for issuance of Writ of Certiorarified Mandamus, to quash the impugned notice vide Letter No.360/CCB/TBM/2023, dated 23.08.2023 issued by the first respondent for debit freezing the Bank account of the petitioner Company bearing Account No.231005501744 maintained with respondent No.2 and consequently, to direct the respondents to unfreeze the bank account of the petitioner.

2. According to the petitioner-Company, they are engaged in the business of Data Processing Hosting and related activities registered with Ministry of Micro, Small and Medium Enterprises (MSME). For operation of their business, a Bank account bearing No.231005501744 was maintained with the second respondent - ICICI Bank, Ghodasar, Ahmedabad, Gurajt. While that being so, the first respondent vide impugned notice dated 23.08.2023 directed the second respondent to debit freeze the account of the petitioner, which was maintained with them, by stating that as one Mohandass was cheated for an amount of Rs.69,90,000/-, in which, the petitioner's ICICI Bank account is said to be involved. Thereby, the second respondent-Bank debit frozen the account of the petitioner. It is further submitted that no enquiry has been conducted, even post freezing the account of the petitioner. Therefore, the petitioner made a representation dated 27.09.2023 to the first respondent requesting to defreeze the account of the petitioner, but there was no response from them. Hence, the present petition.

3. Learned Additional Public Prosecutor appearing for the first

respondent by referring to the counter affidavit submitted that one Mohandass lodged a complaint alleging that he was cheated an amount to the tune of of Rs.69,90,000/- during the period from 28.09.2022 to 19.10.2022 by unknown persons through online trading. Based on the said complaint, the first respondent-Police registered a case in Crime No.247 of 2023 for the offence under Section 420 IPC and Section 66D Information and Technology Act. Subsequently first respondent-Police sent notice to the Bank in which the said Mohandass transferred his money as per the inducement of the Cyber Crime fraudsters to debit freeze the account and to get Know Your Customer (KYC), Account Opening Form (AOF) and Statement of accounts. In order to stop the usage of same Bank accounts by the Cyber Crime fraudsters, those accounts were frozen by the Bank authorities. The victim / *de-facto* complainant transferred money from his ICICI Bank A/c No.106201501463 and Kotak Mahindra Bank A/c No.4746426602 to the fraudsters' accounts in the Bank namely YES Bank A/c No.046163300003125, A/c No.021463300003800, A/c No.102863300000352, A/c No.116985800000417 and UPI ID wegj2080@upi, mohamadr@ybl, totally through 21 transactions to the tune of Rs.69,90,000/-. Further, the Cyber Crime fraudsters have transferred the amount of Rs.69,90,000/- to other Bank accounts in many layers for easy withdrawal. It is further submitted that during investigation, the first respondent-Police arrested one Priyanshu Sharma @ Nikhil and he has confessed that Rohit and Shubham, are his close associates and all of them involved in the alleged offence and that they seized the signed cheque leaves belonging to one Shubham, who is the proprietor of the petitioner-Company from Priyanshu Sharma. Based on his confession and evidence, the first respondent-Police sent notice to the second respondent-Bank to debit freeze the Bank Account No.231005501744. On a perusal of the documents submitted by the Bank, it would reveal that the said Bank account number belongs to the petitioner-Company herein. Hence, the respondent-Police sent notice to the petitioner-Company for enquiry, but he did not appear for enquiry. After that, 41(A) Cr.P.C summons were served on the petitioner-Company and intimation report regarding the frozen amount was also submitted under Section 102 Cr.P.C before the learned Judicial Magistrate-I, Tambaram on 24.02.2024. He further submitted that after enquiry it reveals that Priyanshu Sharma, Rohith and Shubham Kumar

Damani, had conspired and committed the alleged offence and hence, the first respondent-Police altered Sections from 420 IPC and 66D of Information and Technology Act to Sections 120(B), 420 IPC and 66D Information and Technology Act. He further submitted that if the account of the petitioner-Company is de-freezed, they will use the same Bank accounts to cheat the innocent public again. Hence, he prays to dismiss the present petition.

4. Learned counsel for the petitioner-Company submitted that though the case is pending for more than one year, the first respondent-Police not yet filed charge sheet. He further submitted that first respondent-Police without knowing the nature of the transaction i.e. as to whether the amount which is lying in the petitioner's account is the alleged amount or not, unnecessarily freezed the account of the petitioner-Company.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances and also considering

the submissions made by the learned counsel on either side, this Court is of view that the case was registered in the year 2023 vide Crime No.247 of 2023, but charge-sheet has not yet been filed. At this stage, this Court cannot pass any order, unless ascertaining the involvement of the petitioner-Company in the alleged offence or the amount, which is lying the petitioner's account is the alleged amount. Therefore, the first respondent-Police is directed to complete the investigation and file charge-sheet within a period of three months from the date of receipt of a copy of this order. In the meanwhile, the petitioner is at liberty to make his submissions before the first respondent-Police. On such request, the first respondent-Police is directed to consider his request on merits and in accordance with law.

7. With the above observation and directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

06.01.2025

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

1. The Inspector of Police,
   Cyber Crime Cell,
   Central Crime Branch,
   Office of Tambaram Commissionerate,
   Sholinganallur, Chennai.

2. The Public Prosecutor,
   High Court, Madras.

P.VELMURUGAN, J

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