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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 1994 of 2025

A.Prema

Petitioner(s)

Vs

The State, Represented by,
The Deputy Superintendent of Police,
Economic Offence Wing,
Head Quarters, Chennai.
Crime No.16/2022.

Respondent(s)

PRAYER: Criminal Revision filed under Sections 438 and 442 of BNSS to call for the entire records and set aside the order dated 27.05.2025 made in CrI.M.P.No.112 of 2025 in C.C.No.07 of 2022 in Crime No.16/2022, on the file of the learned Special Judge, Special Court under TNPID Act, Chennai.

For Petitioner(s): Mr.G.Jeremiah

For Respondent(s): Dr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

This revision challenges the dismissal of the petitioner's application to direct the respondent police to recall their letter dated 17.05.2023 addressed to the Joint Sub Registrar -2, Kanchipuram, which restrained registration of the petitioner's schedule mentioned property bearing Plot No.14, measuring an extent 1500 Sq.ft. in approved layout known as "Sri Ram Nagar Phase – I" at Vishakandigai Village, Kanchipuram Taluk and District.



2.The respondent, in exercise of their powers under section 102 Cr.P.C. corresponding to Section 106 BNSS, issued a letter on 17.05.2023 to the Joint Sub Registrar – 2, prohibiting registration of any document in respect of the petitioner's property. The petitioner filed an application on 17.03.2025 before the Special Court under the Tamil Nadu Protection of Interest of Depositors Act (TNPID Act) praying for a direction to the respondent police to recall the said letter. The learned Judge dismissed the said application on the ground that section 31 of the BUDS Act empowers a police officer to seize any property, if he has reason to believe that the said property is necessary for the purpose of any investigation in any offence under the BUDS Act. The learned Judge held that though there is a provision under the BUDS Act which states that the provisions of Cr.P.C. would be applicable, BUDS Act would override Section 102 Cr.P.C. and held that there is no irregularity or illegality in the respondent issuing a letter to the Joint Sub Registrar – 2, not to register any document in respect of the petitioner's property.

3.The learned counsel for the petitioner would submit that a reading of Section 31 of the BUDS Act would make it clear that all searches, seizures and arrest have to be made in accordance with the provisions of Cr.P.C., and therefore, the BUDS Act cannot override the provisions of Cr.P.C.; that Section 102 Cr.P.C. does not confer power to the respondent to issue any such letter unless the conditions stipulated in the said provision are satisfied and that



though the letter was issued on 17.05.2023, the respondent police have not so far filed any application under the TNPID Act though it is their case that the sale in favour of the petitioner is a malafide transfer and therefore, the respondent police must be directed to withdraw the letter issued to the Joint Sub Registrar-2.

4.The learned Government Advocate (Crl.Side) per contra submitted that the respondent police are taking steps to file an application under Section 8 of the TNPID Act to attach the property of the petitioner since the transfer made to the petitioner is a malafide transfer; that several properties were seized during the course of investigation; that hence there has been a delay in filing of the application and submitted that the impugned order is justified and prayed for dismissal the revision.

5.Admittedly, the petitioner is not an accused in the case. It is the case of the respondent that there is a malafide transfer of the property in question in favour of the petitioner. The respondent issued the communication to the Registrar on 17.05.2023. It is well settled that in order to invoke Section 102 Cr.P.C., the property must be either a stolen property or must be a property that creates a suspicion of commission of any offence. It is not the respondent's case that the property satisfies any of the above two conditions. It is the respondent's case that the property has to be attached in the interest of the depositors.



Therefore, the respondent ought to have resorted to the provisions relating to attachment of the property. But they have not done so for the past 2½ years.

That apart, the learned Judge erred in holding that BUDS Act would override the provisions of Cr.P.C., The said observation is contrary to the provisions of Section 31 of the BUDS Act, which only reiterates the powers of the police to seize certain properties and freeze accounts of the accused and stipulates that all searches, seizures and arrest must be in accordance with the provisions of Cr.P.C.

6. Therefore, since the respondent police have not complied the provisions of Section 102 Cr.P.C. and still not filed any application before the competent authority, this Court is inclined to direct the respondent's to recall the letter dated 17.05.2023 forthwith. Hence, the criminal revision stands allowed. However, it is needless to say that the respondent police are at liberty to move any application for attachment, provided the conditions for invoking any rules, or provisions are fulfilled.

18-12-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

1.The Deputy Superintendent of Police,
Economic Offence Wing,
Head Quarters, Chennai.
Crime No.16/2022.

2.The Special Judge,
Special Court under TNPID Act,
Chennai.

3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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