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Crl.O.P.No.5114 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.5114 of 2024

1.M/s.Richy Health Care Pvt. Ltd.,
Represented by its Director
Dr.Amit Ajgaonkar,
Having Officer address at,
Parth business Plaza,
Off Link Road, Mith Chowki,
Marve Road, Malad (W),
Mumbai – 400 064.

2.Dr.Amit Ajgaonkar,

... Petitioners

Vs

1.The State represented by its
Inspector of Police,
Thazhambur Police station,
Central Crime Branch,
Tambaram City Police,
Sholinganallur, Chennai – 600 119.

2.HDFC Bank Limited,
Shop No.8, Ground Flooe,
Bhagat Grandeur, New Link Road,
Opposite Infinity Mall, Malad West, Mumbai – 400 064.

3.Kotak Mahindra Bank Ltd.,
Shop Numbers 9, 10 and 11,
Ground Floor, Wing “b”,



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“Silver Spring” Plot No.118
Lokhandwala Complex, Andheri West,
Mumbai – 400 053.

4.M/s.Eessa Constructions Pvt. Ltd.,
Represented by its Director,
Mr.K.V.Sridharan,
Having registered Office at,
7, SS Avenue,
Old Mahabalipuram Road (OMR),
Padur, Chennai – 603 103.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to defreeze the Bank accounts of the petitioners being HDFC Bank Mindspace, Malad West Branch account No.50200037515777 in the name of Richy Health Care Pvt. Ltd., i.e., 1st petitioner and Kotak Mahindra Bank Lokandwala, Andheri Branch Account No.3713077499 in the name of Richy Health Care Pvt. Ltd., i.e. Petitioner No.1 in the Crl.O.P.No.13939 of 2022 and pass such further orders.

For Petitioners : Mr.Manoj Kumar

For Respondents : Mr.S.Udaya Kumar for R1
Government Advocate (Crl.Side)

: Mr.Dinesh D .Tiwari &
Mr.S.Ashok Kumar for R4

ORDER

This Criminal Original Petition had been filed to defreeze the Bank accounts of the petitioners at HDFC Bank Mindspace, Malad West Branch



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account No.50200037515777 in the name of Richy Health Care Pvt. Ltd., i.e.,

1st petitioner and Kotak Mahindra Bank Lokandwala, Andheri Branch

Account No.3713077499 in the name of Richy Health Care Pvt. Ltd., i.e. 1st

Petitioner in the Crl.O.P.No.13939 of 2022

2. Heard Mr.Manoj Kumar, learned counsel for the petitioners, and Mr.S.Udaya Kumar, learned Government Advocate (Crl.Side) for the State and Mr.Dinesh D .Tiwari and Mr.S.Ashok Kumar for the fourth respondent/de-facto complainant.

3. Based on the complaint alleging a sum of Rs.6.25 Crores cheated by this petitioner and others, the account of the first petitioner maintained at HDFC Bank bearing Account No.50200037515777 freezed by the Investigating Officer Vide communication dated 27.04.2022 in Crime No.119 of 2022.

4. The present petition is filed to defreeze the account stating that the first petitioner is no way connected with the crime. However, pending investigation, his account has been freezed. There is a gross violation of Section 102 Cr.P.C. Even after lapse of nearly two years the I.O has not



defrozeed the account to enable the petitioner herein to operate.

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5. The learned counsel for the *de-facto* complainant submitted that the petitioners and the other accused promised to arrange huge loan amount and shown a DD of Rs 9,00,00,000/- (Rupees Nine Crores Only) drawn by this petitioner and induced the *de-facto* complainant to deposit a sum of Rs.6.25 Crores from their account number 2708055000135, Siruseri Bank Branch. As directed by the accused first he sent Rs.1 Lakh to HDFC Bank, Ahamadabad Brach Bank account number 50200044711104 in the name of Siddheswari Trading Company. After confirming that the money had gone to the above account, de-facto complainant sent a further sum of Rs.5.49 Crores. Then again as per the instruction of the accused sent Rs.75 Lakhs to City Union Bank, Royapettah Branch account number 510909010085838 in the name of Jim Forex Private Limited.

6. On this accusation, the following four accounts of the petitioner herein freezed pursuant to the request of the I.O.

S.No	Name of the Account Holder	Account No. & Bank	Fozen amount
1	Richy Health Care Pvt.,	015805010998	Closed by



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	Ltd.,	ICICI Bank, Malad Branch, Mumbai West	(A-1 Dr. Amit)
2	ICALL Genesis Pvt., Ltd.,	015805011857 ICICI Bank, Malad Branch, Mumbai West	Closed by (A-1 Dr. Amit)
3	Richy Health Care Pvt., Ltd.,	3713077499 Kotak Mahindra Bank, Malad Branch, Lokhandwala, Mumbai	Rs.35,69,694/- (A-1 Dr. Amit)
4	Richy Health Care Pvt., Ltd.,	50200037515777 HDFC Bank, Malad Branch, Mumbai West	Rs.12,04,78,338.7 5/- (A-1 Dr. Amit)

7. The counter filed by the I.O. indicates that similar *modus operandi* was adopted by the accused persons, hence, the account were freezed suspecting the amount laying in these accounts are proceeds of crime. However this Court finds that except this one complaint from K.V.Sridharan for cheating a sum of Rs.6.25 Crores, there is no other complaint against this petitioner. Except some suspicion against this petitioner for purchasing DD's for huge amounts like Rs.15 Crores, Rs.5 Crores, Rs.9 Crores, Rs.50 Crores on various circumstances and same being cancelled subsequently. There is no further material gathered during the investigation.

8. The learned counsel appearing for the petitioners stated that these



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DD's were purchased to participate in the tender floated by Mumbai Municipal Corporation and the same was not used for any criminal purpose.

9. Taking note of this submissions and the counter filed by the State, this Court is of the view that since the matter now being intimated to the concerned learned Judicial Magistrate and the complaint is to a tune of Rs.6.25 Crores, the petitioner herein shall approach the Judicial Magistrate for return of balance amount less Rs.6.25 Crores which is the subject matter of the criminal prosecution.

10. The learned Judicial Magistrate shall consider the application and pass appropriate order following the dictum laid by the Hon'ble High Court of Kerala in *Dr.Sajeer and Others Vs Reserve Bank of India* reported in *(2023) KHC online 661*.

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Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

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To

The Inspector of Police,
Thazhambur Police station,
Central Crime Branch,
Tambaram City Police,
Sholinganallur, Chennai – 600 119.

Dr.G.JAYACHANDRAN,J.

Gba

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