



W.P.(MD) No.28934 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2025

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.28934 of 2023

Deepika

... Petitioner

Vs.

1.The Manager,
DBS Bank, Thallakullam,
Opposite to American College,
Thamukuum, Madurai.

2.The Inspector of Police,
O/o.Vilakuthoon Police Station,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus directing the second respondent to defreeze the petitioner's Bank Accounts 0444307000001993 and 0444301000062031 in the first respondent Bank based on the petitioner's representation dated 12.10.2023.

For Petitioner : Mr.S.M.A. Jinnah

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)



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ORDER

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2. When the matter came up for hearing on 05.12.2024, the following order was passed by this Court:

The learned Government Advocate (Criminal side) appearing for the second respondent seeks for some more time.

2.In the instant case, the writ petition has been filed for a direction to the second respondent to defreeze the bank account of the petitioner, which is maintained in the first respondent bank.

3.This Court must only see as to whether the second respondent has complied with the mandate under Section 102 of Cr.P.C. while freezing the bank account of the petitioner. If this mandate has not been followed, the bank account has to be defreezed. This Court will consider only this issue in this writ petition and will not go into the merits of the case.

4.The learned Government Advocate (Criminal side) shall take specific instructions with respect to the compliance of the mandate under Section 102 of Cr.P.C. and report before this Court.



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5.Post this writ petition on 09.12.2024 under the caption 'for passing final orders'.

3. When the matter was taken up for hearing today, the learned Government Advocate (Criminal Side) appearing on behalf of the respondent police relied upon the latest Judgment of the Hon'ble Apex Court in *Shento Varghese Vs. Julfikar Husen and others*, reported in **(2024) 2 MLJ (Crl.) 499 (SC)**. The learned Government Advocate (Criminal Side) submitted that the view taken by this Court and by some of the other High Courts, to the effect that the freezing of a bank account will be vitiated if intimation is not given to the jurisdictional Magistrate forthwith, has been overruled by the Hon'ble Apex Court.

4. This Court carefully went through the Judgment of the Hon'ble Apex Court that was relied upon by the learned Government Advocate (Criminal Side).

5. The Hon'ble Apex Court has held that the order of seizure can be challenged only on the grounds of lack of jurisdiction or that the item that has been seized does not satisfy the definition of 'property,' or on the



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ground that the property seized could not have given rise to suspicion concerning the commission of a crime. The Hon'ble Apex Court has further held that the obligation to report the seizure to the Magistrate is neither a jurisdictional prerequisite for exercising the power to seize, nor is the exercise of such power made subject to compliance with the reporting obligation. Thus, the various orders passed by this Court, holding that the seizure was vitiated due to failure to report the seizure to the Magistrate forthwith, have been overruled by the Hon'ble Apex Court.

6. In the considered view of this Court, the relief sought for by the petitioner in this Writ Petition cannot be granted. It is left open to the petitioner to approach the concerned court and seek appropriate relief and work out her remedy in the manner known to law.

7. This Writ Petition is disposed of in the above terms. No costs.

28.01.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/ Non-Speaking Order

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To:

- 1.The Manager,
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- 2.The Inspector of Police,
O/o.Vilakuthoon Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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N.ANAND VENKATESH, J.

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