

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2806 OF 2021**

Feru Mevalal Prop Of Arth Trading

... Petitioner

V/s.

The State Of Maharashtra And Ors.

... Respondents

Mr. Brijesh Pathak for Petitioner.

Mr. S. S. Hulke APP, for Respondent-State.

Mr. Ajinkya Badar for Respondent No.2.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 2nd MARCH, 2023.****PC. :**

1. By the present Petition, Petitioner has prayed that, the directions issued by Respondent No.2 i.e. Assistant Commissioner of Police, Cyber Crime Unit, CyPAD, Special Cell, Delhi Police, New Delhi to Respondent No.3 i.e. Kotak Mahindra Bank Limited, Fort, Mumbai by its email dated 2nd/3rd July, 2021 to Debit freeze account of Petitioner, which is situated at Fort Mumbai, are illegal and without jurisdiction or authority of law and the same may be set aside.

2. Heard Mr. Pathak, learned Advocate for Petitioner and Mr. Badar, learned Advocate for Respondent No.2.

3. At the outset, learned Advocate appearing for Respondent No.2 on instructions submitted that, the crime in question, bearing C. R. No. 141 of 2021 for the offence punishable under Section 419, 420, 468, 471, 120-B

read with Section 34 of the Indian Penal Code (*for short "IPC"*) and under Section 66-D of the Information Technology Act has been registered with Police Station, Special Cell, Delhi on 29th May, 2021. That, during the course of investigation of said crime it was revealed that, the proceeds of crime in the said case have been transferred in the account of Petitioner and therefore Investigating Agency has issued a letter/email to Respondent No.3-Bank, requesting it to debit freeze account of the Petitioner. He submitted that, entire cause of action i.e. lodgment of crime and its investigation has occurred at Police Station, Special Cell, Delhi and therefore this Court will not have territorial jurisdiction to entertain present Petition.

4. In response to the said preliminary objection, Mr. Pathak, learned Advocate for Petitioner submitted that, Petitioner's account is with Respondent No.3 Bank situated at Fort, Mumbai and therefore part of cause of action has arisen in Mumbai and therefore this Court will have jurisdiction to entertain present Petition. In support of his contention he relied on two decisions of the Hon'ble Supreme Court in the case of *Om Prakash Srivastava Vs. Union of India And Anr. (2006) 6 SCS 207* and *Rajendran Chingaravelu Vs. R. K. Mishra, Additional Commissioner of Income Tax And Others, (2010) 1 SSC 457*. He therefore prayed that, this Court may exercise its jurisdiction under Article 226 of the Constitution of India in directing the Respondent No.2 to direct the Respondent No.3 to defreeze account of Petitioner.

5. It is to be noted here that, as stated by the learned Advocate for Respondent No.2, during the course of investigation of C. R. No. 141 of 2021 registered with Respondent No.2 at New Dehli, it is revealed that substantive amounts which are the proceeds of crime have been transferred by accused persons in the account of Petitioner and the Petitioner is beneficiary of the said proceeds. Section 120-B of the IPC has been applied to present case. It therefore *prima-facie* appears that, in furtherance of criminal conspiracy hatched by the principal accused alongwith other accused persons, the part of proceeds of crime/amount, approximately Rs.6 Crores, has been transferred in the account of present Petitioner.

6. In view thereof, according to us the entire cause of action and also issuance of said letter/email dated 2nd/3rd July, 2021, directing the Respondent No.3-Bank to Debit freeze the account of Petitioner has arisen at New Delhi. Merely because the recipient of proceeds of crime i.e. Petitioner is residing within the territorial jurisdiction of this Court, it will not ipso-facto give jurisdiction to this Court to entertain present Petition.

Thus, the facts in the case in hand totally differ from the facts in the said two cases relied upon by the learned Advocate for Petitioner and it is of no avail to him.

7. In view of the above, we are of the opinion that, the present Petition is without jurisdiction and is accordingly disposed off.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)