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Madras High Court mandates proportionality in freezing of bank accounts by investigating authorities

The Hon'ble Madras High Court ("Madras HC"), in the matter of *Mohammed Saifullah vs. Reserve Bank of India and Ors*¹ has delivered a significant ruling on the freezing of bank accounts in cases of ongoing investigations, particularly concerning cybercrimes. The judgment addresses the need to balance investigative needs with the rights of account holders. It also provides clear directions on conducting such actions in a manner that prevents unnecessary hardship to account holders.

Brief facts

1. Mohammed Saifullah ("Petitioner") filed a writ of *mandamus* before the Madras HC after HDFC Bank froze his account based on the instructions from the Cyber Crime Bureau, Telangana. This action was taken as part of an investigation into cryptocurrency-related activities.
2. While only INR 2,48,835 (Indian Rupees two lakh forty-eight thousand eight hundred and thirty-five) of the account's balance was suspected to be involved in the crime, the bank froze his account which had a balance of INR 9,69,580 (Indian Rupees nine lakh sixty-nine thousand five hundred and eighty).
3. The Petitioner argued that neither the investigating agency nor the bank had informed him of the reasons for the freezing of the account or how long it would last, causing undue hardship in his financial affairs.

Issues

1. Whether the blanket freezing order is justified in cases where the suspected amount is lower than the total account balance?
2. Should the account holder be notified of the reasons for freezing their bank account?

Analysis and findings

The Madras HC, while acknowledging the statutory powers granted to investigation agencies to freeze accounts under Section 102 of the Code of Criminal Procedure, 1973 (now Section 106 of the Bhartiya Nagarik Suraksha Sanhita,

¹ W.P.No.25631 of 2024

2023)², emphasised that these powers must be exercised responsibly. Below is the summary of the Madras HC's findings:

1. account holders must be notified promptly of the reasons for freezing their accounts, and a timeline should be provided for the freeze. The failure to do so violates basic principles of natural justice;
2. freezing the entire account balance when only INR 2,48,835 (Indian Rupees two lakh forty-eight thousand eight hundred and thirty-five) was suspected to be linked to the crime was unjustified. It held that investigative agencies should freeze or mark a lien only the amount related to the investigation/alleged crime and not the entire account, unless circumstances warrant it; and
3. indiscriminate freezing of accounts could severely affect individuals' right to livelihood and business, violating Article 19(1)(g) of the Constitution of India, which guarantees the right to carry on business. The Madras HC stressed that actions by investigating authorities should not infringe upon these fundamental rights without proper justification.

The Madras HC concluded by directing HDFC Bank to immediately de-freeze the Petitioner's account, allowing him to utilise the remaining funds. However, the bank was instructed to retain a lien on INR2,50,000 (Indian Rupees two lakh fifty thousand), slightly higher than the amount under suspicion, until the investigation was concluded. The Petitioner was also directed to ensure that this amount remain in his account.

Conclusion

This judgment is a significant step toward protecting the rights of individuals and businesses affected by arbitrary account freezes by investigating agencies. By setting guidelines, the Madras HC has reinforced the importance of proportionality and transparency in freezing orders during investigations. Authorities must now ensure that: (a) such freeze is limited to the amount under investigation; and (b) they must promptly inform account holders of the reasons and duration of the freeze.

Additionally, the judgment places a responsibility on law enforcement agencies to conduct thorough investigations, particularly in cases where no specific amount of fraud has been quantified by the complainant. The police will need to carefully evaluate such situations to ensure that the accused is not unjustly enriched whilst also preventing severe prejudice to the complainant. This careful balancing act is essential to avoid unnecessary hardship on the account holders while ensuring that victims of fraud are adequately protected. This ruling will help mitigate the financial and operational challenges caused by unnecessarily broad freezing orders, ensuring a fairer process for account holders while allowing investigations to proceed effectively.

It is important to note that these guidelines are currently limited to the jurisdiction of the Madras HC and, by extension, the state of Tamil Nadu. Similar guidelines will need to be issued by other High Courts or the Supreme Court to provide uniform protection across the country. Nonetheless, this judgment will carry considerable weight and may be cited as persuasive precedent in other courts dealing with similar issues.

² Power of police officer to seize certain property

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This Prism is prepared by:



Varghese Thomas
Partner



Hormuz Mehta
Partner



Ahsan Allana
Senior Associate

		
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