

MHCC050039442018



IN THE COURT OF SESSION AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI

ORDER BELOW EXH.22
IN
SESSIONS CASE NO. 261 OF 2018

1 Gopal Vithal Joijode,
Director of First Choice and Media
Entertainment Private Limited
Having office at G9, 8th floor,
Plot No. 156, Everest Apartment,
Pt. M.M.M. Marg, Tardeo,
Mumbai : 400 034

2 Sameer Chandrakant Pagare,
Director of Blue Moon Media Private Limited,
Having office at G9, 8th floor,
Plot No. 156, Everest Apartment,
Pt. M.M.M. Marg, Tardeo,
Mumbai : 400 034

3 Rizwan Adul Razzak Poonawala
Director of Option Entertainment
Services Private Limited,
Having office at : G9, 8th floor,
Plot No. 156, Everest Apartment,
Pt. M.M.M. Marg, Tardeo,
Mumbai : 400 034

..Applicants

Vs

The State of Maharashtra,
(through Sahar Police Station)

.Respondent

Adv. Shri Muley for the applicants.
APP Mr. Savle for the State.

**CORAM : SHRI S. U. BAGHELE,
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.10.**

DATE : 28th June, 2019.

ORDER

This is an application for the purpose of defreezing certain bank accounts.

2 Heard both the sides.

3 Perused the record.

4 It is submitted by the learned counsel for the applicants that there was no compliance of Section 102 of Cr.P.C., while directing the freezing of accounts by the police, apart from his various other submissions, which need not be adhered to herein, to decide the legal controversy. Reliance is sought to be placed upon the following three authorities, 1) **Dr. Shashikant D. Karnik Vs State of Maharashtra [2008 CRI.L.J. 148]** wherein it is held that the non-compliance of the provisions of S. 102 of Cr.P.C. would render the order liable to be quashed, 2) **Ms. Swaran Sabharwal Vs Commissioner of Police [1988 CRI. L.J. 241]** wherein it is held that the provisions of Section 102 cannot be invoked relating to the discovery of the commission of offence under Official Secrets Act, 3) **Smt. Lathifa Abubakkar Vs The State of Karnatka & Ors. [2012 CRI. L.J. 3487]** wherein it is held that the freezing of bank account was not proper, when the mandate contained in S. 102 of Cr.P.C. was not complied with.

5 Per contra, it is submitted by the Ld. APP that necessary orders may be passed as per the report filed by the police.

6 As per the report filed by the police, the applicants sent huge amount abroad in the names of passengers.

There is no averment therein vis-a-vis the compliance of the provisions contained in S. 102 of Cr.P.C., vis-a-vis, intimating the factum thereof to the Magistrate. In view of the non-compliance of the said mandate, the direction relating to the freezing of the accounts is liable to be quashed, in view of the ratio laid down in the case of Dr. Shashikant Karnik (supra).

7 In the light of the forgoing observations, the application deserves to be allowed, and hence, I proceed to pass the following order :

ORDER

1 The application (Exh. 22) is hereby allowed in terms of prayer clause (a). Consequently, the Investigating Officer and the concerned banks shall do the needful.

2 The application (Exh. 22) stands disposed of accordingly.

(S. U. BAGHELE)

Dt. 28/06/2019

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on	: 28/06/2019
Transcribed on	: 28/06/2019
Checked & corrected on	: 28/06/2019
Signed on	: 28/06/2019

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

01/07/2019 at 5.43 p.m.
UPLOAD DATE AND TIME

Mrs. S.B. Vichare
NAME OF STENOGRAPHER

Name of Judge (with Court room no.)	Shri S. U. Baghele, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
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Date of Pronouncement of JUDGEMENT/ORDER	28/06/2019
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JUDGEMENT/ORDER signed by P.O. on	28/06/2019
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JUDGEMENT/ORDER uploaded on	01/07/2019
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