

Latheef vs the Manager

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Court : Kerala

Decided On : Apr-01-2025

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : WP(C)/41709/2024

Appellant : Latheef

Respondent : The Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 1ST DAY OF APRIL 2025 / 11TH CHAITHRA, 1947 WP(C) NO. 41709 OF 2024 PETITIONER: LATHEEF AGED 65 YEARS S/O KUNJIMON, PATTIKAKKARAN, VIVEK ANGANAVADI, INCHAMUDI, THRISSUR, KERALA, PIN - 680564 BY ADVS. ABDUL HADI M.P. MUHAMMED MUSTHAFA K. RESPONDENTS: 1 THE MANAGER ESAF SMALL FINANCE BANK LTD, INCHAMUDI BRANCH, CHERPU THRIIPRAYAR ROAD, CHIRAKKAL, JUNCTION, NEARBY SMALL BRIDGE, INCHAMUDI, THRISSUR, KERALA, PIN - 680564

2 THE POLICE INSPECTOR, SONARPUR POLICE STATION, BARUIPUR POLICE DISTRICT, , SONARPUR STATION RD,

SONARPUR BAZAAR, RAJPUR SONARPUR, KOLKATA, WEST BENGAL MAIL: LCSONARPUR- PS@POLICEWB.GOV.IN , SONARPURPS@GMAIL.COM, PIN - 700150 3 ADDL.R3. INSPECTOR OF POLICE, SOUTH SUBURBAN DIVISION KASBA POLICE STATION, WEST BENGAL KOLKATA, BOSEPUKUR RD, TAL BAGAN, BOSEPUKUR, KASBA, KOLKATA, WEST BENGAL 700042 EMAIL: PS.KASBA@KOLKATAPOLICE.GOV.IN 4 ADDL.R4. INSPECTOR OF POLICE, KHASI HILLS EAST MAWNGAP POLICE STATION, MEGHALAYA, MAWNGAP, SYNRRANG KABAN, MEGHALAYA - 793120 EMAIL- SP.EKH-MEG@GOV.IN

(ADDL.R3 AND R4 IMPEADED VIDE ORDER DATED 01-04-2025 IN IA 1/25 IN WPC 41709/2025) WP(C) No.41709 of 2024 2 BY ADV RASHMI.K.V THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) No.41709 of 2024 3

JUDGMENT

Dated this the 1st day of April, 2025 The writ petition is filed to direct the 1st respondent bank to lift the debit freezing of the petitioners bank account bearing No.50230001356309.

2. The petitioner is the holder of the above bank

account with the 1st respondent bank. The petitioner contends that the 1st respondent bank has frozen the petitioners bank account pursuant to the requisitions received from the police. The action of the 1st respondent is illegal and arbitrary. Hence, the writ petition

3. Heard; the learned counsel appearing for the petitioner and the learned counsel appearing for the 1st respondent.

4. The learned counsel appearing for the 1st respondent submitted that the disputed amount is Rs.12,965/-. The said submission is recorded.

5. In considering an identical matter, this Court in Dr.Sajeer v. Reserve Bank of India [2024 (1) KLT 826]

held as follows:

WP(C) No.41709 of 2024 4

a. The respondent Banks arrayed in these cases, are directed to confine the order of freeze against the accounts of the respective petitioners, only to the extent of the amounts mentioned in the order/requisition issued to them by the Police Authorities. This shall be done forthwith, so as to enable the petitioners to deal with their accounts, and transact therein, beyond that limit. b. The respondent - Police Authorities concerned are hereby directed to inform the respective Banks as to whether freezing of accounts of the petitioners in these Writ Petitions will require to be continued even in the afore manner; and if so, for what further time, within a period of eight months from the date of receipt of a copy of this judgment. c. On the Banks receiving the afore information/intimation from the Police Authorities, they will adhere with it and complete necessary action - either continuing the freeze for such period as mentioned therein; or withdrawing it, as the case may be. d. If, however, no information or intimation is received by their Banks in terms of directions (b) above, the petitioners or such among them, will be at full liberty to approach this Court again; for which purpose, all their contentions in these Writ Petitions are left open and reserved to them, to impel in future.

6. Subsequently, this Court in Nazeer K.T v.

Manager, Federal Bank Ltd [2024 KHC OnLine 768], after concurring with the view in Dr.Sajeer's case (supra) and taking into consideration Section 102 of the Code of Criminal Procedure (now Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023] and the interpretation of Section 102 of the Code laid down by the Hon'ble Supreme WP(C) No.41709 of 2024 5 Court in State of Maharashtra v.

Tapas D Neogy [(1999) 7 SCC 685], Teesta Atul Setalvad v. State of Gujarat [(2018) 2 SCC 372] and Shento Varghese v. Julfikar

Husen and others [2024 SCC OnLine SC 895], has held

thus:

8. The above discussion leads to the conclusion that, while delay in forthwith reporting the seizure to the Magistrate may only be an irregularity, total failure to report the seizure will definitely have a negative impact on the validity of the seizure. In such circumstances, account holders like the petitioner, most of whom are not even made accused in the crimes registered, cannot be made to wait indefinitely hoping that the police may act in tune with S.102 and report the seizure as mandated under Sub-section

(3) at some point of time. In that view of the matter, the following direction is issued, in addition to the directions in Dr.Sajeer (supra).

(i) The Police officer concerned shall inform the banks

whether the seizure of the bank account has been reported to the jurisdictional Magistrate and if not, the time limit within which the seizure will be reported. If no intimation as to the compliance or the proposal to comply with the S.102 is informed to bank within one month of receipt of a copy of the judgment, the bank shall lift the debit freeze imposed on the petitioner's account.

(ii) In order to enable the police to comply with the above direction, the bank as well as the petitioner shall forthwith serve a copy of this judgment to the officer concerned and retain proof of such service.

7. I am in complete agreement with the views in

Dr.Sajeer and Nazeer K.T cases (supra). The above WP(C) No.41709 of 2024 6 principles squarely apply to the facts of the case on hand. In the above conspectus, I dispose of the writ petition by passing the following directions:

(i). The 1st respondent Bank is directed to confine the freezing order of the petitioner's bank account only to the extent of the amount mentioned in the order/requisition issued by the Police Authorities. The above exercise shall be done forthwith, so as to enable the petitioner to transact through his account beyond the said limit;

(ii). The Police Authorities are hereby directed to inform the Bank as to whether freezing of the petitioner's account will be required to be continued even in the afore manner; and if so, for what further time;

(iii) On the Bank receiving the afore

information/intimation from the Police Authorities, they will adhere with it and complete necessary action - either continuing the freeze for such period as mentioned therein; or withdrawing it, as the case may be; (iv). If, however, no information or intimation is received by the Bank in terms of direction (ii) above, the petitioner will be at full liberty to approach this Court again; for which purpose, all his contentions in this Writ Petition are left open and reserved to him, to impel in future;

(v) The jurisdictional police officers shall inform

the Bank whether the seizure of the bank account has been reported to the jurisdictional Magistrate and if not, the time limit within which the seizure will be reported. If no intimation as to the compliance or the proposal to comply with Section 102 of the Cr.P.C. is WP(C) No.41709 of 2024 7 received by the Bank within two months of receipt of a copy of this judgment, the Bank shall lift the debit freeze or remove the lien, as the case may be, on the petitioner's bank account;

(vi) In order to enable the Police to comply with the above direction, the Bank, as well as the petitioner, shall forthwith serve a copy of this

judgment to the jurisdictional officer and retain

proof of such service. The writ petition is ordered accordingly. Sd/- C.S.DIAS,
JUDGE AJ WP(C) No.41709 of 2024 8 APPENDIX OF WP(C) 41709/2024
PETITIONER EXHIBITS Exhibit 1 TRUE COPY OF THE ACCOUNT STATEMENT
OF THE PETITIONER ACCOUNT IDENTIFIED BY A/C. NUMBER
50230001356309 OF A PERIOD DATED FROM 16.09.2024 TO 14.10.2024

Exhibit P2 TRUE COPY OF THE LETTER DATED 30.09.2024 ALONG WITH
COMPLAINT DETAILS FORWARDED BY THE 1ST RESPONDENT BANK TO
THE PETITIONER HEREIN Exhibit P3 TRUE COPY OF THE LETTER DATED
03.10.2024 FORWARDED BY THE 1ST RESPONDENT BANK TO THE
PETITIONER NOTICE THROUGH EMAIL Gmail - NOTICE OF WRIT PETITION
(CIVIL) NO. 41709 OF 2024 ON THE FILES OF HONOURABLE HGIH COURT
OF KERALA AT ERNAKULAM NOTICE THROUGH EMAIL Gmail - NOTICE OF
WRIT PETITION (CIVIL) NO. 41709 _ 2025 ON THE FILES OF HONOURABLE
HGIH COURT OF KERALA AT ERNAKULAM

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