

Muhammed Shajahan U P Vs Union Of India

Court: High Court Of Kerala

Date of Decision: Feb. 4, 2025

Acts Referred: Bharatiya Nagarik Suraksha Sanhita, 2023 " Section 106
Code of Criminal Procedure, 1973 " Section 102

Hon'ble Judges: C.S.Dias, J

Bench: Single Bench

Advocate: P.C.Anil Kumar, Anison M.R, T C Krishna

Final Decision: Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed to direct the 2nd respondent bank to lift the freezing of the petitioner's bank account bearing No.20202821655.

2. The petitioner is the holder of the above bank account with the 2nd respondent bank. The petitioner contends that the 2nd respondent has frozen the

petitioner's bank account pursuant to a requisition received from the police. The action of the 2nd respondent is illegal and arbitrary. Hence, this

writ petition.

3. Heard; the learned counsel appearing for the petitioner, the learned Deputy Solicitor General of India and the learned counsel appearing for the 2nd

respondent bank.

4. The learned counsel for the 2nd respondent bank submitted that the petitioner's bank account has been completely frozen. The disputed

amount is Rs.2,04,457/-. 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:

" 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 Court in State of Maharashtra v. A. A. 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 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 2nd 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 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.