

13th January,
2021
(AK)
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W.P.A 10081 of 2020

M/s. K.A. & Sons (Jewellers), represented through its
sole proprietor Sheikh Aminuddin Ali
Vs.
Axis Bank Limited & Ors.

Mr. Imitiaz Ahmed
Ms. Shaila Afrin
Ms. Smita Saha
Mr. Supriya Majumder
Mr. S.K. Saidullah
Mr. Debopam Roy
Ms. Arunima Mukhopadhyay
...For the Petitioner.

Ms. Sayani Roy Chowdhury

....For the Respondent nos.1 and 2

Mr. Arun Kumar Roy
Mr. Biswanath Samanta
Mr. Bivas Chatterjee
.....For the State.

Affidavit-of-Service filed in court today be kept on
record.

The writ petition arises from a complaint of the
petitioner that the petitioner's account bearing
no.919020067470247, being a current account held with
the Axis Bank, was frozen without any prior intimation to
the petitioner and an amount of Rs. 9,871/- was
transferred from such account to a third party account of
the State Bank of India during the period for which the

petitioner's account remain frozen. The petitioner's account was, however, subsequently de-frozen.

Learned counsel for the Bank submits that such action was undertaken by the Bank upon being issued an instruction to that effect from the Commissionerate of Police, Asansol-Durgapur, at the behest of the Cyber Crime Police Station.

As previously directed, the concerned officers who were in charge of the impugned action at the relevant juncture, namely, Mukul Mia and Priyojit Majee, file their respective affidavits in the form of reports.

It has been disclosed in such affidavits that the case was investigated by ASI Priyojit Majee and that Mukul Mia, who was the Inspector in charge at that point of time in the said Police Station, had issued the order of freezing the petitioner's account on the basis of such investigation.

Both the said officers have tendered unconditional apology in their affidavit(s)-in-opposition.

In view of such apology, no penal order is being passed at the present juncture by this court.

However, the action of the concerned officers reaches further depths than the limited scope of the writ petition. Apart from mitigating the grievance of the petitioner, this court is duty-bound to look into the nature of the modus operandi adopted by the cyber crime police station.

On the last occasion when the matter was taken up for hearing, it was indicated by Priyojit Majee, one of the officers involved, that such course of action, as taken by the police station in the present case, is usual in similar cases.

Such submission, unfortunately, indicates that such course action may then be a regular affair in the concerned police station, although solely the statement of Priyojit Majee is not conclusive proof in that regard.

However, an enquiry has to be undertaken about such action and whether the same is a regular affair with the Asansol-Durgapur Cyber Crime Police Station.

Accordingly, W.P.A. 10081 of 2020 is disposed of by directing the respondent no. 3, that is, the Commissioner of Police, Asansol-Durgapur to immediately issue appropriate instructions on the State Bank of India, where the transferee account is held, to reverse the illegal transfer of Rs. 9,871/- from the petitioner's account to such transferee account, by re-transferring the entire amount of Rs. 9,871 from such transferee account to the petitioner's account.

Such transfer should be completed within a week from date. The petitioner shall be at liberty to communicate this order to the State Bank of India as well, for due implementation of the same.

It will be open to the petitioner to claim damages against the Commissionerate of Police, Asansol-Durgapur

with regard to such illegal freezing of the petitioner's account during the relevant period, in the event the petitioner has suffered financial loss or loss of goodwill for such freezing.

That apart, the Commissioner of Police, Asansol-Durgapur, shall immediately initiate an internal enquiry into the impugned action of Priyojit Majee and Mukul Mia and as to whether such course of action is a regular affair with the Asansol-Durgapur Cyber Crime Police Station.

Upon completion of such enquiry, the Commissioner shall take appropriate punitive steps against the guilty officers in accordance with law.

The parties are to act on the communication of counsel and/or server copies of this order without insisting upon prior production of certified copy.

Needless to say, personal appearance of the officers present in court today is dispensed with.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)