

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9476/2021**

Date of Decision: 20.03.2023

IN THE MATTER OF:

SHRI RAGHUVeer JEWELLERS PRIVATE LIMITED
THROUGH ITS AR
SH. TANUJ SONI
REGD. OFFICE:
L-92, LALJI SHOPPING COMPLEX,
SHOP NO. 1, MUNIRKA MARKET
NEW DELHI - 110067

..... PETITIONER

Through: Mr.Vijay Kumar, Mr.Ashiwini
Gahlot and Mr.Himanshu Singh,
Advocates.

Versus

RESERVE BANK OF INDIA
THROUGH ITS
GOVERNOR
OFFICE AT:
RESERVE BANK OF INDIA
6, SANSAD MARG
NEW DELHI - 110001

..... RESPONDENT NO. 1

STATE BANK OF INDIA
THROUGH ITS
CHAIRMAN
MAIN BRANCH
11, PARLIAMENT STREET
NEW DELHI - 110001

..... RESPONDENT NO. 2

HDFC BANK
THROUGH ITS
THE CHIEF EXECUTIVE OFFICER
PLOT NO. 8, OPP, CAPITAL COURT,

SECTOR 4, R K PURAM,
DELHI-110022

..... RESPONDENT NO. 3

STATE-GOVT OF NCT OF DELHI
THROUGH ITS
COMMISSIONER OF POLICE
POLICE HEADQUARTERS,
JAI SINGH ROAD,
NEW DELHI - 110001

..... RESPONDENT NO. 4

SARLA
C/O SH. GOPAL SAINI
R/O 599, BULAND SHAHAR
G.T. ROAD, U.P.
MOBILE: 7837474623

..... RESPONDENT NO. 5

Through: Mr.Rajiv Kapur, Mr.Akshit Kapur
and Mr.Harsh Narwal, Advocates
for SBI.
Mr.Yugantar Singh Chauhan,
Advocate for R-3.
Mr.Anubhav Gupta, Panel
Counsel (Civil), GNCTD and
Mr.Varun Garg, Advocates for R-
4.
SI Amar Singh, P.S.Kishangarh.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This petition filed under Article 226 of the Constitution of India is directed against the respondents seeking directions to release/unfreeze the funds freezed/held by respondent No.3/HDFC Bank.

2. Learned counsel appearing on behalf of the petitioner states that in August, 2020 respondent No.5 had purchased gold ornaments *vide* invoices amounting to Rs.4,88,851.35 and Rs.4,37,000.16. The payment of the said ornaments was made by respondent No.5 from her account being maintained with State Bank of India (SBI) through IMPS and RTGS transactions.

3. Learned counsel appearing on behalf of the petitioner states that the petitioner received an email dated 19.12.2020 from the officials of respondent No.3/HDFC Bank, wherein, respondent No.3/HDFC Bank mentioned that they had received the email from officials of respondent No.2/SBI, informing them that respondent No.5 had lodged a complaint disputing the said transactions and therefore, respondent No.3/HDFC Bank decided to freeze funds of Rs.8,25,000/- in the petitioner's account.

4. Learned counsel appearing on behalf of the petitioner further states that the decision of the respondent No.3/HDFC Bank to freeze the account of the petitioner to the tune of Rs.8,25,000/- is without any jurisdiction and the same is not supported by any Rules or Regulations. According to him, there is neither any decision by any of the Competent Authority nor directions issued by the RBI to freeze the account of the petitioner to the aforesaid extent. He, therefore, states that once the transaction was already allowed to be operated, the same ought not to have been undone in a manner unknown to law.

5. Learned counsel appearing on behalf of the respondent No.2/SBI states that they had received a complaint from respondent No.5 and on the basis of the said complaint, the email was sent to respondent No.3/HDFC Bank i.e. the bank of the petitioner.

6. Learned counsel appearing on behalf of the respondent

No.3/HDFC Bank while placing reliance on his affidavit states that the amount of Rs.8,25,000/- has been freezed/held by the said respondent based on the intimation given by respondent No.2/SBI vide email dated 16.11.2020. In paragraph Nos.3 to 6, following averments have been made by respondent No.3/HDFC Bank:-

*"3. That I state that the Petitioner has maintaining a bank account bearing No. 50200025033421 in the name of "Raghuveer Jewellers Private Limited" with Respondent No.3 Bank. It is humbly submitted on behalf of the Respondent No.3 that the amount of **Rs. 8,25,000/- (Rupees Eight Lakhs Twenty Five Thousand Only)** has been freezed /hold by the Respondent No.3 based upon the intimation given by Respondent No.2 vide email dated 16.11.2020 from SBI, Region-3, Delhi Admin Office-1 wherein the Respondent No.3 was informed that Respondent No.5 has lodged a criminal complaint dated 19.10.2020 at Shahdra Police Station, Delhi against the transactions/transfer of **Rs.3,88,000/- (Rupees Three Lakhs Eighty Eight Thousand Only)** and **Rs.4,37,000/- (Four Lakhs Thirty Seven Thousand Only)** done on 20.08.2020 and 29.08.2020 respectively to the Bank Account of Petitioner maintained by the respondent No.3. A copy of the Email dated 16.11.2020 by Respondent No.2- State Bank of India is annexed here and marked as **ANNEXURE- R3 /1** Copy of the Criminal Complaint dated 19.10.2020 at Shahdra Police Station, Delhi is annexed here and marked as **ANNEXURE - R3 /2***

*4. That vide Reply dated 16.06.2021, the Respondent No.3 Bank in response to Legal Notice dated 07.06.2021 issued by the Petitioner's counsel (already annexed with the Writ Petition filed by the Petitioner as Annexure P-8) apprised the Petitioner that on receipt of request from Respondent No.2, the Respondent No.3 Bank hold/freeze the funds of the account in question to safeguard the interest of the parties and will release the amount only after having appropriate directions from competent Court of Law /Statutory Authority. A copy of the reply dated 16.06.2021 by Respondent No.3 Bank is annexed here and marked here as **ANNEXURE R-3 /3**.*

5. *That vide Email dated 05.08.2021, the Respondent No.3 Bank in response to Letter/Representation dated 22.07.2021 issued by the Petitioner (already annexed with the Writ Petition filed by the Petitioner as Annexure P-10) again apprised the Petitioner that the Respondent N o.3 Bank will release the amount only after having appropriate communication from a competent Court of Law/Statutory Authority. A copy of the Email dated 05.08.2021 by Respondent No.3 Bank is annexed here and marked here as **Annexure R-3/4**.*

6. *That it is humbly submitted that the Respondent No.3 Bank is the custodian of the public money and has to act in order to protect the interest of the Bank as well as of the Public and if this Hon'ble Court pass appropriate directions/orders directing the Respondent N o.3 to de-freeze the above mentioned amount of the Petitioner, then the Respondent No.3 undertakes to comply and adhere to the said direction(s)/order(s) of this Hon'ble Court."*

7. Learned counsel appearing on behalf of respondent No.4 states that as of now, there is no FIR at the instance of respondent No.5 and on the complaint of respondent No.5 no cognizable offence is disclosed, therefore, no FIR has been registered.

8. Having considered the submissions made by learned counsel appearing on behalf of the parties, it is seen that at the request of respondent No.5, the amount in question was transferred by SBI into the account of the petitioner which is being maintained with respondent No.3/HDFC Bank. Once the transaction was complete, in normal course, there was no reason to withhold the benefit of the said transaction. If respondent No.5 had any grievance with respect to the petitioner, then respondent No.5 should have taken the said grievance to the appropriate forum in accordance with law. But in no case, the complaint which was sent to SBI and in turn forwarded to respondent No.3/HDFC Bank should result in a denial of the benefit of the said transaction.

9. It is also to be noted that the FIR is not yet been registered and the transaction is of the year 2020. Respondent No.5 has not taken any action, either to seek reversal or recovery of the said amount. The action of the respondent No.3/HDFC Bank is found to be based on no material and completely without justification or jurisdiction.

10. It is therefore, held that the decision of the respondent No.3/HDFC Bank to freeze/hold the account of the petitioner to the extent of Rs.8,25,000/- is illegal, improper and without jurisdiction. The same is therefore, set aside. Respondent No.3/HDFC Bank is directed to allow access to the said amount to the petitioner.

11. In view of the aforesaid, the instant petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

MARCH 20, 2023/MJ

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