IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947

WP(C) NO. 6525 OF 2025

PETITIONER:

MUHAMMED ASHIQ K
AGED 24 YEARS
S/O ASSAIN K, KOTTAKKUZHIYIL HOUSE, EAST MALAYAMMA, MALAYAMMA, CHATHAMANGALAM, KOZHIKODE, KERALA, PIN - 673601

BY ADV HAMDAN MANSOOR K.

RESPONDENTS:

1 HDFC BANK
REPRESENTED BY ITS MANAGER, MUKKAM BRANCH, GROUND FLOOR, TESNA TOWER, MUKKAM, KOZHIKODE, PIN - 673602

2 RESERVE BANK OF INDIA
REPRESENTED BY ITS GOVERNOR, HEAD OFFICE, MUMBAI, MAHARASHTRA -, PIN - 400029

3 NATIONAL CYBER CRIME REPORTING PORTAL,
REPRESENTED BY ITS DIRECTOR, NATIONAL HIGHWAY - 8, MAHIPALPUR, NEW DELHI -, PIN - 110037

4 STATE POLICE CHIEF
POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN - 695014

5 STATION HOUSE OFFICER
PUNE CITY CYBER POLICE STATION, PUNE, MAHARASHTRA, PIN – 411005

DSGI GP SMT VIDYA KURIAKOSE,
SC SRI PREMCHAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 28th day of March, 2025

The writ petition is filed to direct the 1st respondent bank to lift the freezing of the petitioner's bank account bearing No.50100595347587.

2.The petitioner is the holder of the above bank account with the 1st respondent bank. The petitioner states that the 1st respondent has frozen the petitioner's bank account pursuant to a requisition received from the 5th respondent. The action of the 1st respondent is illegal and arbitrary. Hence, this writ petition.

3. Heard; the learned counsel appearing for the petitioner, the learned counsel for the first respondent and the learned Government Pleader.

4. The learned counsel for the first respondent submitted that the disputed amount is Rs.69,456/-. 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. 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).
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> (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 ofreceipt 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 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 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

rmm28/3/2025

APPENDIX OF WP(C) 6525/2025

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE DETAILS OF THE COMPLAINT DATED 05.08.2023**