S/L 13
03.02.2026
Court. No. 25
sourav

WPA 27938 of 2025

Srinjon Dutta
Vs.
The Union of India & Ors.

Mr. Subhojit Seal
Mr. Soumya Khan

... for the petitioner.

Md. Manuwar Ali
Mr. Arunabha Maity

... for the respondent nos. 9 and 10.

Mr. Dipanjan Datta
Mr. Subhajit Chowdhury
Ms. Esha Basak

... for the Bank of Baroda.

1. The petitioner has filed the present writ application for a direction upon the respondent no. 5, i.e., The Branch Manager, Bank of Baroda, Kalinagarpara, Kalna to defreeze the account of the petitioner being Account No. 36230200000379.

2. Learned counsel for the petitioner submits that the petitioner is the proprietor of the Dutta Jewellery and Sons carrying on the business of retail jewellery at Sonapatti, Kalna, Purba Bardhaman. Learned counsel for the petitioner submits that all of a sudden, in the month of August, 2025 the current bank account of the petitioner being Account No. 36230200000379 was freezed by the Bank.

3. Learned counsel for the petitioner has made enquiry from the Bank and the Bank has informed that the same has been freezed as per the written instruction of the Inspector, SHO, Cyber Crime Police Station, Thrissur City, Kerala dated August 11, 2025. Learned counsel for

the petitioner submits that the transaction amount is Rs. 45,000/- and the disputed amount is Rs. 19,167/- but the petitioner has paid the total tax of Rs. 45,000/- and without any information to the petitioner and without any enquiry from the petitioner, the Bank has freezed the account of the petitioner on the instruction of the police authority.

4. Learned counsel for the petitioner has relied upon judgment in the case of ***Headstar Global Pvt. Limited Vs. State of Kerala*** reported in ***2025 SCC Online Ker 3546*** and in the case of ***Kartik Yogeshwar Chatur Vs. Union of India & Ors.*** reported in ***2025 SCC Online Bom 4778*** and submits that it is settled law that unless and until the investigating agency will not obtain an order from the jurisdictional Magistrate under Sections 107 and 108 of the BNSS, the investigating officer cannot freeze the account of the petitioner.

5. He further submits that in the present case there is no record that the investigating agency has obtained any order from learned Magistrate for freezing of the account of the petitioner.

6. Learned counsel appearing for the Bank submits that the Bank has received a written instruction from the Inspector, SHO, Cyber Crime Police Station, Thrissur City, Kerala on 11.08.2025 with the direction to freeze the account of the petitioner being Account No. 36230200000379 and as per the instruction of the

investigating agency, the Bank has freezed the said account.

7. Learned counsel appearing for the State submits that the State has no role to play in the instant matter as the Bank has acted upon the instruction of the police authority of Kerala.

8. Heard the learned counsel for the respective parties.

9. Perused the materials on record.

10. This Court finds that the Inspector, SHO, Cyber Crime Police Station, Thrissur City, Kerala had requested the Bank for freezer of the account of the petitioner on the ground that a case has been initiated being Crime No. 45 of 2025 under Section 318(4) BNS, 3(5) & 66(d) IT Act of Cyber Crime Police Station and in connection with the investigation of the said case, the investigating agency has requested the Bank to freeze the said account. In spite of service of notice of this case, the respondent no. 8 failed to appear before this Court to contest the present writ application.

11. By an order dated January 13, 2026, this Court was of the view that one opportunity should be given to the respondent no. 8 i.e., Inspector-in-Charge, SHO, Cyber Crime Police Station, Thrissur City, Kerala and accordingly, directed the petitioner to serve notice upon the respondent no. 8 to give opportunity to hear the said Investigating Officer what is the necessity of freezing the said account. In spite of service of notice, none appears on behalf of the respondent no. 8. None of the authorities has placed any record before this Court that

the investigating agency has obtained any order from the learned Magistrate for freezer of the account.

12. The Kerala High Court in the case of ***Headstar Global Pvt. Limited (Supra)*** has held that while Section 106 speaks of seizure and Section 107 deals with attachment, forfeiture and restoration, seizure under Section 106 can be carried out by a police officer and an *ex post facto* report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon the orders of the Magistrate. The logic behind the distinction being that the purpose of seizure is more to secure the evidence during an investigation, whereas attachment is intended to secure the proceeds of crime by preventing its disposal and thus ensuring its availability for legal procedure such as forfeiture and distribution to the victims.

13. In the case of ***Kartik Yogeshwar Chatur (Supra)*** the Hon'ble Division Bench of Bombay High Court has relied upon the order passed by the learned Single Bench of the Kerala High Court.

14. In the present case though the Bank has acted upon the request of the police authority i.e., the respondent no. 8 wherein the respondent no. 8 has requested the Bank to freeze the account of the petitioner. The petitioner has made the investigating agency as party to the instant case in whose jurisdiction the case has been initiated. In spite of service of notice, none appears on behalf of the respondent no. 8.

15. This Court by an order dated 13.01.2026 has also given an opportunity to the respondent no. 8 to appear before this Court whether the investigating officer has obtained any report from the concerned Magistrate for attachment of the account of the petitioner, but in spite of service of notice, the investigating agency chooses not to appear before this Court.

16. Considering the above, this Court presumed that the investigating agency has not obtained any order from the learned Magistrate for attachment of the account of the petitioner and there is no record to show that the investigating agency has acted in accordance with law under Sections 106 and 107 of the BNSS.

17. This Court finds that request of attachment made by the investigating agency i.e., the respondent no. 8 to the Bank is without any order from the Jurisdictional Magistrate and accordingly, the Bank is directed to immediately defreeze the account of the petitioner and petitioner is allowed to operate the bank account.

18. **WPA 27938 of 2025** is disposed of.

19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)