

Neutral Citation No. 2025:KER:93902

ORIGINAL JURISDICTION

Mr. Justice M.A. Abdul Hakim

WP (C) No.40571 of 2025

2024 December 4

Shameera K.K.

. .

Petitioner

v.

Canara Bank and another

. .

Respondents

The writ petition is filed seeking a direction to the first respondent bank to defreeze the petitioner's bank account, which was frozen at the requisition of the second respondent police authority. According to the first respondent bank, a requisition for freezing the petitioner's account for an amount of 3,34,000/- was received from the second respondent. Thereafter, pursuant to an order of the Additional Metropolitan Magistrate Court, Jaipur, the said amount was transferred to the account of the de facto complainant. Disposing off the Writ Petition, the Court;

Issues for Consideration

Whether a bank can lawfully transfer money from a customer's frozen bank account to a de facto complainant on the basis of a police requisition and a Magistrate's order, without giving prior notice or intimation to the account holder?

Constitution of India—Article 300 A—Freezing of Bank Account—A Bank cannot mechanically transfer money from a frozen account on a police requisition or Magistrate's order without prior notice to the account holder—Such transfer, effected without affording an opportunity to challenge the order, violates the account holder's right to property under Article 300A of the Constitution of India.

Held:

The 1st Respondent Bank transferred the frozen amount of 3,34,000/- from the account of the Petitioner on the basis of the aforesaid Order of the Magistrate's Court without informing the Petitioner. It appears that the Magistrate Court also passed an Order without issuing notice to the Petitioner. It is a wrong practice adopted by the Banks that prejudicially affects the rights of the Account Holders. If the Bank had informed the Petitioner before transferring the above amount from the account of the Petitioner in compliance with the Order of the Magistrate's Court, the Petitioner could have worked out his remedies against the Order of the Magistrate's Court before the appropriate forum. If the Banks follow such a practice, the innocent Account Holders may be deprived of their valuable money for a long period or may even lose their

money, as the Account Holders have to initiate proceedings for getting back the said amount. Sometimes, the Courts ordering the transfer of the amount would be situated in far-off places, making it practically difficult to recover the amount. Sometimes innocent persons may lose their money on false complaints made by the fraudsters in the Court alleging cybercrime if the Court orders the transfer of the amount without notice to the affected persons. This Court highly deprecates the practice of the Banks transferring money in the Bank accounts without giving notice to the Account Holders on receipt of Orders from the Court for the same. It violates the right of the Account Holders under Article 300A of the Constitution of India. (*Paragraph 3*)

List of Acts:

Constitution of India.

List of Keywords;

Freezing of bank account, Police requisition, Transfer of frozen amount, Magistrate's order, Principles of natural justice, Right to property.

Case Arising From:

Writ Petition filed under Article-226 of the Constitution of India .

Appearance of Parties:

Shri. Nesamudheen Smt. Safa C.M. and Smt. Thasmiya Manikandan . . . for petitioner

Sri. M. Gopikrishnan Nambiar . . . for respondents

JUDGMENT

1. The Writ Petition is filed for a direction to the 1st Respondent Bank to de-freeze the Bank account of the Petitioner, which the 1st Respondent effected at the requisition of the 2nd Respondent - Police Authority.

2. The learned Standing Counsel for the 1st Respondent Bank submitted that the Bank had received a requisition for freezing of the account of the Petitioner from the 2nd Respondent for 3,34,000/- and that thereafter, the Bank received an Order from the Additional Metropolitan Magistrate Court, Jaipur, for the transfer of the said amount to the account of the de facto complainant, and the Bank transferred 3,34,000/- as per the said Order.

3. The 1st Respondent Bank transferred the frozen amount of 3,34,000/- from the account of the Petitioner on the basis of the aforesaid Order of the Magistrate's Court without informing the Petitioner. It appears that the Magistrate Court also passed an Order without issuing notice to the Petitioner. It is a wrong practice adopted by the Banks that prejudicially affects the rights of the Account Holders. If the Bank had informed the Petitioner before transferring the above amount from the account of the Petitioner in compliance with the Order of the Magistrate's Court, the Petitioner could have worked out

his remedies against the Order of the Magistrate's Court before the appropriate forum. If the Banks follow such a practice, the innocent Account Holders may be deprived of their valuable money for a long period or may even lose their money, as the Account Holders have to initiate proceedings for getting back the said amount. Sometimes, the Courts ordering the transfer of the amount would be situated in far-off places, making it practically difficult to recover the amount. Sometimes innocent persons may lose their money on false complaints made by the fraudsters in the Court alleging cybercrime if the Court orders the transfer of the amount without notice to the affected persons. This Court highly deprecates the practice of the Banks transferring money in the Bank accounts without giving notice to the Account Holders on receipt of Orders from the Court for the same. It violates the right of the Account Holders under Article 300A of the Constitution of India.

4. Since the frozen amount is already transferred by the 1st Respondent Bank as per the Order of the Magistrate's Court, this Writ Petition is disposed of, directing the 1st Respondent Bank to permit the Petitioner to operate the account and leaving open the remedies of the Petitioner against the Order of the Magistrate's Court.

Result of the Case:

Writ Petition was disposed off.

Headnote Prepared by A.A.A.
