



2024:IO:KER:52

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

Monday, the 25th day of November 2024 / 4th Agrahayana, 1946
WP(CRL.) NO. 1106 OF 2024(FILING NO.)

PETITIONER(S):

SHAHADA T.K., AGED 32 YEARS, THANIKKATT HOUSE, KAVANCHERY P.O,
KAIMALASSERY, ALINGAL, TIRUR, MALAPPURAM, KERALA, INDIA, PIN -
676561.

BY ; SHAHADA T.K (Party -in -person)

RESPONDENT(S):

1. HABEEBULLAH P.T., POURATHODIYIL HOUSE, PARUTHUR PO, KODIKUNNU,
PALAKKAD, KERALA, INDIA, PIN - 679305.
2. ABDULLAH KUTTY, POURATHODIYIL HOUSE, PARUTHUR PO, KODIKUNNU,
PALAKKAD, KERALA, INDIA, PIN - 679305.
3. MUHAMMED SALIM ALIAS MAMBI, PONNACHAM THODI, SALIM MANZIL, NELLAYA
PO, MOSCO, POTTACHIRA, PALAKKAD, KERALA, INDIA, PIN - 679335.
4. BAPPOOTTI, 9495094603, PATTAMBI, PALAKKAD, KERALA, INDIA, PIN -
679503.
5. STATION HOUSE OFFICER, THRITHALA POLICE STATION, THRITHALA,
PALAKKAD, KERALA, INDIA, PIN - 679534.
6. DEPUTY SUPERINTENDENT OF POLICE, DYSP OFFICE, SHORNUR, PALAKKAD,
KERALA, INDIA, PIN - 679121.

PUBLIC PROSECUTOR FOR R5 & R6(served on)

This unnumbered Writ petition (criminal) (filing No.1106/2024)
having come up for orders on 25.11.2024, the court on the same day passed
the following:

P.T.O.



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"C.R."

BECHU KURIAN THOMAS, J.

Unnumbered W.P(Crl.) of 2024
Filing No.(1106 of 2024)

Dated this the 25th day of November, 2024

ORDER

This writ petition is filed by Smt. Shahada T.K. as party-in-person. Hence she alone could be the Electronic-Filer (E-Filer). Since the name of another person - Sri. Asif Azad, was shown as having filed the case, on behalf of the petitioner, the Registry noted certain defects. Though the defects noted were attempted to be rectified since the E-Filer was not the petitioner, the following defect remained:

"While scrutiny of this W.P.Crl., it was noted that petitioner along with another party in person has moved this file. When a defect was noted, cause-title was corrected. But, name of the petitioner is not substituted so far, in docket and title of memorandum after cause-title.

*Defect regarding wrong entry of party-in-person verification.
Details in the metadata also not cured"*

2. When the above defect was made known to the petitioner, the following reply was given:

"1. There is no edit option for the docket and the cause tile but



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I change it in the index, As this petition have high red alert emergency as only 9 days remaining for the life of an innocent person who's passport has been stolen, so this writ petition is a connection to that, so post it as unnumbered, as I dont have time to waste with IT department.

4. I cannot change that as I run an internet company, I know only one thing that only the IT department can cure that defect, but due to a life emergency I want this case to be posted before the honourable court as unnumbered'."

3. Considering the content and manner of reply, the Registry posted the case before this Bench as a defect without numbering the writ petition.

4. In this context, it needs to be mentioned that, though the writ petition was filed by a party-in-person, it was filed using the registered dashboard of another person and hence the defect when noted, was returned to the dashboard of the person who filed the writ petition. After rectification of the defects, it can thereafter be uploaded only through the dashboard of the person who had filed it originally. In the instant case, though the petitioner is Smt.Shahada T.K, the writ petition was filed using the dashboard of a person by the name of Sri. Asif Azad. Hence when the defects were cured, it was resubmitted through the same dashboard, i.e. that of a person other than the petitioner. As the petitioner and the E-Filer were different and since the E-Filer was not an Advocate or the party-in-person, the defect



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subsisted.

5. When the case came up in the defect list, Smt. Shahada T.K, the petitioner, appeared online. However, it was noticed that she had accessed the court proceedings through the dashboard of Sri. Asif Azad, who was concededly not an Advocate. When this Court enquired about it, Sri. Asif Azad appeared along with the petitioner and on the court's query regarding the relation between the petitioner and Sri.Asif Azad, it was replied in the negative.

6. Petitioner had filed the writ petition as a party-in-person and she cannot be represented by any person other than an Advocate or a person duly permitted by the Court. Petitioner has not appointed any Advocate to appear on her behalf. She has also not sought permission and has not been given permission to be represented by another person. Therefore petitioner alone can appear before the Court and cannot be represented by any third party.

7. Since no permission was granted to the petitioner to be represented by any other person, she alone could have appeared online on her behalf. However, Sri. Asif Azad appeared online and started insisting that this Court must avoid the case. When the Court informed that there was no reason to avoid the case, he alleged that this Court had imposed costs on him in some other case and that he has already filed complaints before the President of India and even



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stated that he is recording the proceedings and will post them on social media. He also alleged that this Court is acting with vengeance.

8. This Court felt that Sri. Asif Azad was attempting to browbeat the court to somehow or the other, get the case avoided from this Bench, since, on an earlier occasion, a cost was imposed against him an in another case refused permission to appear on behalf of a party-in-person. Since there was no valid reason for avoiding this case, this Court refused to yield to such attempts that too, at the instance of strangers to the lis. The conduct of Sri. Asif Azad was no doubt reprehensible and a possible instance of an attempt to malign and scandalize the Court. However, since trivial issues need not be unnecessarily aggravated, wasting the precious time of the Court, the conduct noted above is ignorant.

9. Be that as it may, the objection raised by the Registry in the instant case arises from the circumstance that the writ petition was filed by Smt. Shahada. T.K. with Sri. Asif Azad shown as the E-Filer. A reading of the reply to the defects pointed out also indicate that it was furnished by the E-Filer and not the writ petitioner. In this context, it is necessary to advert to the Electronic Filing Rules for Courts (Kerala) 2021 (for short the 'E-Filing Rules'). The following terms in the E-Filing Rules are relevant:

2. Definitions.- In the construction of these rules the following terms (unless the context or subject-matter otherwise requires)



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shall have the respective meanings hereinafter assigned to them:

xxx xxx xxx xxx
xxx xxx xxx xxx

(j) "Electronic Filer (E-Filer)" means an Advocate or a Party-in-Person filing the pleadings or documents electronically through the Electronic Filing System and who has registered under Rule 4 of these Rules.

(k) "Electronic Filing (E-Filing)" means electronic filing in the prescribed manner through the Internet (at the Electronic Filing Web Portal of the Court) and through the Internet or Intranet at Designated Counters, unless the context otherwise requires.

xxx xxx xxx xxx
xxx xxx xxx xxx

(u) "Party" means plaintiff, petitioner, complainant, applicant, caveator, appellant, decree holder or any other person who initiates an Action.

3. General Instructions.-

xxx xxx xxx xxx
xxx xxx xxx xxx

(6) A Party-in-Person who institutes or defends an Action shall submit an affidavit or an undertaking stating that he has not engaged an Advocate in the Action.

(7) A Party-in-Person who subsequently engages an Advocate shall file an application before the Administrator for transferring the data in respect of the proceedings instituted, to the Advocate's user account. Once the data is transferred by the Administrator to the user account of the Advocate, the Party-in-Person shall not be allowed to modify the data filed or file any pleadings in the same proceedings.

4. Registration and Responsibilities of E-Filer.-(1) All Advocates and party-in-Person who have not registered on the Court Electronic Filing web portal shall register themselves in the Court Electronic Filing Web Portal. The procedure for registration will be published in the website of the Court.

(2) The Registry shall allot a user account, if the registration done under sub-rule (1) is in proper order.

(3) The E-Filer's username and password shall constitute the E-



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Filer's electronic identity and the user account for the purpose of these Rules.

(4) The E-Filer shall maintain a valid and working Electronic Mail (e-mail) address and mobile number to facilitate the receiving of Electronic Mail notifications or Short Messaging Service (SMS) from the Electronic Filing System. The Registry shall not be responsible if an E-Filer does not receive notifications from the Electronic Filing System through his Electronic Mail or SMS.

(5) The E-Filer can also change his Electronic Mail address or mobile number or other information provided in his profile using the Electronic Filing Web Portal.

(6) The E-Filer shall be responsible for safeguarding his user ID and password and shall be liable for the conduct undertaken using his user ID and password. The E-Filer shall also ensure that his user ID and password is not shared with any other person.

(7) The E-Filer shall not use his user ID other than for filing the case in which he has been engaged or is interested in.

(8) The E-Filer shall take all reasonable steps to ensure that the pleadings and documents filed by him do not contain any malware or virus that might be harmful to the court's electronic filing system and to the other users of that system. The E-Filer if he has reasonable apprehension that his electronic identity has been compromised or a threat to the system exists, he shall immediately inform about the same to the Administrator.

(9) The Courts shall presume that the pleadings and documents filed by the E-Filer have been filed by him using his user ID. Any inappropriate conduct on the part of the E-Filer, which comes to the notice of the Court, shall result in the suspension of his account and strict action being initiated by the Court, against the E-Filer, under any of the laws for the time being in force.

10. A reading of the above Rules indicates that if a party-in-person wants to file a case, he/she must be the person registered as the E-Filer. Such a person cannot use the user ID of another. If an E-Filer uses his user ID for filing cases in which he has no interest or in which he is not engaged, it can be objected to by the Registry. As per



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Rule 4(6) the E-Filer cannot share his user ID and password with any other person and as per Rule 4(7), an E-Filer can use his user ID only for filing cases in which he has been engaged as an Advocate or in which he is interested in. Any misuse of the User ID can be treated as an inappropriate conduct as well. Such conduct can lead to even suspension of the user ID as per Rule 4(8) of the E-Filing Rules.

11. In the instant case, the petitioner has used the User ID of Sri.Asif Azad to file the writ petition. The said User ID was used to reply to the defect as well. Such a practice is not legally permissible. The user ID of Sri.Asif Azad has been misused to file a case in which he is not engaged and not interested in.

12. Further, there is no application for permission to enable another person to file this writ petition on behalf of the petitioner. Hence, Sri. Asif Azad could not have been the E-Filer. Since the writ petition was filed by the petitioner with the User ID of another person, the defect noted by the Registry is legally valid.

In view of the above, the objection raised by the Registry is sustained.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

Jka/25.11.24