

Foreign banks cannot engage agents for realising defaulted loan through threat, coercion: Kerala HC

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The Kerala High Court has held that foreign banks or financial institutions cannot engage recovery agents for realising the defaulted loan amount through threat, coercion, or duress from a borrower.

A Division Bench of Justice K Vinod Chandran and Justice VG Arun observed that if the failure on the part of the borrower to pay back amounts to a criminal offence in a foreign country, the bank could initiate criminal action against the borrower through the diplomatic channel. The court made these observations while disposing of a writ petition filed by a woman from Kollam, who worked as a nurse in Saudi Arabia, against attempts by the recovery agents of Al Rajhi Bank, Saudi Arabia, to intimidate her and compel her to pay the defaulted amount.

The Bench further observed that “any attempt to recover money from an Indian citizen, residing in India, can only be in accordance with the Indian laws, lest it would amount to a challenge to the administration of justice in our country and would violate the constitutional guarantee of equal protection of laws to every citizen of the country. It is always open for the foreign bank or financial institution to initiate legal action for recovery, which can even be in pursuance of a judgment which the bank has obtained from the foreign country”.

The strong-arm methods, for recovery from defaulters, adopted by banks in our country, utilising the services of collection agents (sic), had time and again invited severe criticism from various courts, including the apex court, the Bench added.

The State police chief informed the court that strict instructions have been given to all district police chiefs to take urgent action to ensure that unauthorised loan collection agents of foreign banks do not function in the State.

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