

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN  
&  
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

**WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936**

**Con.Case(C).No. 916 of 2014 (S)**

**JUDGMENT IN WP(C).NO.14860/2010 DATED 23-09-2010.**

**.....**

**PETITIONER(S):**

**-----**

**THOMAS XAVIER,  
THANDAMPARAMBIL, PADAHARAM MURI,  
THAKAZHI VILLAGE, KUTTANAD, ALAPPUZHA.**

**BY THOMAS XAVIER (PARTY- IN - PERSON).**

**RESPONDENT(S):**

**-----**

- 1. K.K. BALACHANDRAN IPS,  
SUPERINTENDENT OF POLICE,  
ALAPPUZHA, AGE AND FATHER'S  
NAME NOT KNOWN TO THE PETITIONER.**
- 2. SANI, CIRCLE INSPECTOR OF POLICE,  
AMBALAPPUZHA, ALAPPUZHA,  
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER.**
- 3. DHIJESH, SUB INSPECTOR OF POLICE,  
AMBALAPPUZHA, ALAPPUZHA,  
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER.**

**BY SRI.P. VIJAYARAGHAVAN, STATE ATTORNEY.**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION  
ON 11/02/2015, THE COURT ON 04/03/2015 DELIVERED THE FOLLOWING:**

**rs.**

**APPENDIX**

**PETITIONER'S ANNEXURES:-**

- |                     |                                                                                                                                                                 |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ANNEXURE A1</b>  | <b>CERTIFIED COPY OF THE JUDGMENT IN WP(C).NO.14860/2010 DATED 23/09/2010 OF THIS HONOURABLE COURT.</b>                                                         |
| <b>ANNEXURE A2</b>  | <b>COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 03/05/2014 ALONG WITH ITS ENGLISH TRANSLATION.</b>                                |
| <b>ANNEXURE A3</b>  | <b>COPY OF THE COMPLAINT DATED 09/06/2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.</b>                             |
| <b>ANNEXURE A4</b>  | <b>COPY OF THE COMPLAINT DATED 09/06/2014 SENT BY THE PETITIONER TO THE 2ND RESPONDENT ON 24/07/2014 BY REGISTERED POST ALONG WITH ITS ENGLISH TRANSLATION.</b> |
| <b>ANNEXURE A5</b>  | <b>COPY OF THE COMPLAINT DATED 09/06/2014 SENT BY THE PETITIONER TO THE 3RD RESPONDENT ON 24/07/2014 BY REGISTERED POST ALONG WITH ITS ENGLISH TRANSLATION.</b> |
| <b>ANNEXURE A6</b>  | <b>COPY OF THE OUT PATIENT TICKET ISSUED FROM THE MEDICAL COLLEGE HOSPITAL, ALAPPUZHA DATED 29/05/2014.</b>                                                     |
| <b>ANNEXURE A7</b>  | <b>COPY OF THE DISCHARGE CARD ISSUED FROM MEDICAL COLLEGE HOSPITAL, ALAPPUZHA.</b>                                                                              |
| <b>ANNEXURE A8</b>  | <b>COPY OF THE FIR IN CRIME NO.675/2014 DATED 13/05/2014 (ENGLISH TRANSLATION).</b>                                                                             |
| <b>ANNEXURE A9</b>  | <b>COPY OF THE JUDGMENT DATED 09/02/2007 IN O.S. NO.233/2005.</b>                                                                                               |
| <b>ANNEXURE A10</b> | <b>COPY OF THE DECREE IN O.S. NO.233/2005 DATED 09/02/2007.</b>                                                                                                 |

**RESPONDENT'S ANNEXURES:-**     **NIL.**

**//TRUE COPY//**

**P.A. TO JUDGE**

**rs.**

**ASHOK BHUSHAN, Ag.CJ  
& A.M.SHAFFIQUE, J.**

\*\*\*\*\*

Cont.Case No.916 of 2014

-----  
Dated this the 4<sup>th</sup> day of March 2015

**J U D G M E N T**

**Shaffique, J**

This contempt case has been filed by party in person alleging non compliance of the directions issued by this Court as per judgment dated 23/09/2010 in W.P.C.No.14860/2010.

2. The writ petition was filed seeking police protection alleging threat from respondents 4 to 14 in a matter relating to enjoyment of property to the petitioner and his family members. Petitioner contended that though he obtained a decree in O.S.No.233/2005, the plaint scheduled property was encroached by the respondents. As per the directions issued by the Execution Court, though a fence was constructed, in violation of the decree passed, the judgment debtors demolished the same to which the petitioner filed prosecution petition.

3. The private respondents filed counter affidavit stating that they have no intention to interfere with the enjoyment of the property by the petitioner whereas they contended that petitioner had put up a fence encroaching into the property of certain others. In fact, petitioner was the fourth plaintiff in the suit in which the decree was passed.

4. This Court recorded the submission of the learned counsel for the party respondents that they have no intention to violate the decree and that they have no intention to cause any threat to the life of the petitioner. This Court, therefore observed that if there is any threat to the life of the petitioner by any of the party respondents the petitioner can bring the same to the notice of 2<sup>nd</sup> and 3<sup>rd</sup> respondents and if a complaint is filed it shall be looked into and if found to be genuine protection to the life of the petitioner shall be granted as against the private respondents. Petitioner submits that despite such directions,

private respondents manhandled him and he filed a complaint to the 1<sup>st</sup> respondent on 03/05/2014. On 29/05/2014, again he was manhandled. He was injured and he filed a complaint dated 09/06/2014 before the 1<sup>st</sup> respondent. But, since no action has been taken in the matter, alleging that there is wilful contempt, this case has been filed.

5. Statement has been filed by the 2<sup>nd</sup> respondent inter alia stating that the petitioner never lodged any complaint till 03/05/2014. The complaint submitted to the District Police Chief on 03/05/2014 was received by the Inspector of Police on 26/05/2014 which was forwarded to the Station House Officer, Ambalapuzha for enquiry. On enquiry, it was revealed that the allegations were false and baseless. Hence no further action was taken and the petition was closed on 27/05/2015. On receiving another complaint on 09/06/2014 by the District Police Chief which was forwarded to the Inspector of Police, Ambalapuzha and

the same was received on 23/06/2014 and subsequently forwarded to the SHO, Ambalapuzha, who conducted a detailed enquiry in the matter. It is stated that, on enquiry, it was revealed that the allegations raised by the petitioner were false and baseless. Further enquiry revealed that the petitioner along with his brother one Mr.Ouseph assaulted Mrs.Archana, her father-in-law Mr.Unnikrishnan, mother-in-law Mrs.Rathnamma on 29/05/2014, in which case, a charge sheet has been filed against the petitioner and his brother. Enquiry revealed that Annexures A3, A4 and A5 complaint dated 09/06/2014 was filed in retaliation with the case registered against the petitioner. It is stated that petitioner and his family members including his brother Mr.Jacob Xavier is interfering with the peaceful life of his neighbour Mr.Unnikrishnan and his family members. There is dispute between them in respect of the right to use the pathway leading to the residence of Mr.Unnikrishnan through the property of the petitioner which is pending adjudication

before the Civil Court.

6. Petitioner has submitted a reply controverting the said statement. He filed I.A.No.465/2014 producing out-patient ticket and discharge card issued from the Medical College Hospital, Alappuzha to indicate that he has suffered certain injuries during an attack on him on 29/05/2014. He submits that Crime Nos.675/2014 and 748/2014 have been registered on false complaints filed by the de facto complainants. He had also filed additional reply affidavit and argument notes reiterating the factual statements.

7. Heard the petitioner in person and the learned counsel appearing on behalf of the respondents.

8. The short question to be considered in this case is whether there is any wilful contempt on the part of the respondents. This Court had only directed the police to look into the complaints and provide protection if it is found that the petitioner was entitled to the same. Petitioner complains about two incidents for which he had filed

complaints and as per the version of the respondents, those two complaints were false, whereas petitioner and his brother were charge sheeted in a crime which was registered on 29/05/2014. By the judgment, police was given freedom to enquire into the complaint and to provide protection, if the complaint was found to be genuine. Since the police had come to the conclusion that the complaint given by the petitioner was not genuine, we do not think that the respondents have committed any wilful contempt.

Under such circumstances, we do not think it necessary to proceed with the above contempt petition and accordingly the same is dropped.

(sd/-)  
**(ASHOK BHUSHAN,  
ACTING CHIEF JUSTICE)**

(sd/-)  
**(A.M.SHAFFIQUE, JUDGE)**

jsr





