

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

Crl.Rev.Pet.No. 717 of 2015

Crl.MP 789/2012 of ENQUIRY COMMR.& SPL.JUDGE,THRISSUR

REVISION PETITIONER/REVISION PETITIONER:

STANLY PAUL, S/O LATE LILLY K. PAUL, SAM VILLA, OTAPALAM-679101
PALAKKAD DISTRICT.

BY ADV. SRI.P.JAYARAM

RESPONDENTS/RESPONDENTS:

1. GIRIJA M., W/O KRISHNAMANI, GIL COTTAGE, OPP. JAS THEATRE
OTTAPALAM P.O., PALAKKAD DISTRICT, PIN:679101.
2. CORPORATE MANAGER, ALL C.S.I. SCHOOLS IN MALABAR & WAYANAD
BANK ROAD, KOZHIKODE P.O., PIN:673001.
3. U.SONGSTER MARTIN, HEADMASTER, B.E. M. SCHOOL, OTTAPALAM-679101.
4. P.T.THOMAS, DEPUTY SECRETARY, GENERAL EDUCATION (B) DEPARTMENT
THIRUVANANTHAPURAM-695001.
5. M.SIVASHANKARAN, GOVERNMENT SECRETARY
GENERAL EDUCATION (B) DEPARTMENT, THIRUVANANTHAPURAM-695001.
6. MURALI M.D., DEPUTY DIRECTOR (EMPLOYMENT)
DIRECTOR OF PUBLIC INSTRUCTION OFFICE, THIRUVANANTHAPURAM-695001.
7. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY ADV. SRI.P.V.KUNHIKRISHNAN
R1 BY ADV. SRI.P.VIJAYA BHANU (SR.)
R1 BY ADV. SRI.M.REVIKRISHNAN
R1 BY ADV. SRI.VIPIN NARAYAN
R6 BY ADV. SRI.T.R.MADHU
R7 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
11-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.717 of 2015

Dated this the 11th day of November 2015

O R D E R

The revision petitioner is the petitioner in Crl.M.P. No.789 of 2012 on the files of the Court of the Enquiry Commissioner and Special Judge, Thrissur.

2. The revision petitioner filed a complaint before the court below against respondent Nos.1 to 6 herein alleging offences under Section 13(1) read with 13(2) of the Prevention of Corruption Act, 1988 and Sections 120B, 403, 420, 465 and 468 I.P.C. read with Section 34 I.P.C. The court below forwarded Crl.M.P. No.789 of 2012 to the Vigilance and Anti-Corruption Bureau for preliminary

enquiry. After conducting the preliminary enquiry, a report was submitted before the court below exonerating the respondent Nos.1 to 6. The court below accepted the said report. Aggrieved by the said order, this revision petition has been filed.

3. Heard both sides.

4. It has been submitted by the learned counsel for the revision petitioner that the learned counsel for the revision petitioner could not reach the Court on 5.3.2015 due to the break-down of the vehicle of the counsel and in the said circumstances, the learned counsel has pleaded for granting an opportunity of being heard. It appears from the order impugned that the report was accepted by the court before hearing the revision petitioner. Since the preliminary

enquiry report was accepted by the court without hearing the learned counsel for the revision petitioner, I am of the view that an opportunity can be granted to the revision petitioner of being heard. For the said reason, the order impugned cannot be sustained.

5. The learned counsel for the first respondent has submitted that a direction should be issued to the court below to consider the precedent reported in **Anil Kumar and others v. M.K. Aiyappa and another** (2013 (4) KLT 125) if the court decides to forward the complaint to the Police for investigation under Section 156(3) of the Code. I think I am not called upon to answer the said submission in this order.

In the result, this revision petition stands allowed

setting aside the order impugned accepting the preliminary enquiry report and the matter is remitted to the court below for fresh consideration of the report, in accordance with law, after granting an opportunity to the revision petitioner of being heard.

The revision petitioner shall appear before the court below on 2.12.2015.

SD/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/12.11.2015

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PA to Judge