

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

OP(Crl.).No. 186 of 2014 (Q)

VC.NO. 15/2008 OF ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOTTAYAM

PETITIONER :

**TOM K.JOSEPH, S/O K.J. JOSEPH, AGED 54 YEARS,
KURIKKAKUNNEL HOUSE, VELICHIYANI,
PARATHODU P.O, KANJIRAPALLY, KOTTAYAM.**

BY ADV. SRI.P.R.VENKETESH

RESPONDENT(S):

- 1. STATE OF KERALA,
RERPESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031**
- 2. DEPUTY SUPERINTENDENT,
VIGILANCE, THODUPUZHA,PIN-685 626**

**R1 & R2 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 02-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(Crl.).No. 186 of 2014 (Q)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE RESOLUTION OF THE PACHAYAT
 DATED 15-06-2007
- EXHIBIT P2 TRUE COPY OF THE FIR PREPARED BEOFRE THE ENQUIRY
 COMMISSIONER AND SPECIAL JUDGE, THRISSUR
- EXHIBIT P3 TRUE COPY OF THE FINAL REPORT DATED 05-05-2012 FILED BEFORE
 THE COURT OF ENQUIRY COMMISSIONER AND SPECIAL JUDGE,
 KOTTAYAM
- EXHIBIT P4 TRUE COPY OF THE PETITION DATED 24-09-2013 BEFORE THE
 VIGILANCE COURT, KOTTAYAM BY THE PETITIONER
- EXHIBIT P5 TRUE COPY OF THE MEMO ISSUED TO ALI, DATED 1/8/2014.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

B.KEMAL PASHA, J.

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O.P.(CrI).No.186 of 2014

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Dated this the 2nd day of September, 2015

J U D G M E N T

Petitioner has filed Exhibit P4 application before the Enquiry Commissioner and Special Judge (Vigilance), Kottayam seeking discharge from C.C.No.42 of 2012. Vide letter dated 16.09.2014, the Enquiry Commissioner and Special Judge (Vigilance), Kottayam has reported that a re-investigation was ordered in the matter and therefore, the Final Report, already filed in the case, was taken away and a re-investigation is being proceeded with. The learned Special Judge has reported that such a re-investigation has commenced on 04.08.2014 and therefore, there is no scope for any such discharge application.

2. Presently, there is no scope for Exhibit P4 to be continued with. When a re-investigation is made, it will be a totally different scenario. In case the investigating officer

again finds that the petitioner should continue as an accused in the Final Report, it will be open to the petitioner to approach the court below once again with such an application under Section 239 Cr.P.C.

With the said liberty to the petitioner, this O.P.(Crl) is closed.

Sd/-

**B. KEMAL PASHA
JUDGE**

DSV/7/9/15