

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

RP.No. 438 of 2015 () IN WP(C).22971/2013

WP(C) 22971/2013 of HIGH COURT OF KERALA

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PETITIONERS - WRIT PETITIONERS:

- 1. J.S.MONIMON, AGED 42 YEARS
S/O. SIMSON, VASNTHABHAVAN
MUNDAPLAVILA, NELLIKUZH
KANJIRAMKUZHI, THIRUVANANTHAPURAM**
- 2. MINI C. CHACKO, AGED 38 YEARS
W/O. MONIMON, VASNTHABHAVAN
MUNDAPLAVILA, NELLIKUZH
KANJIRAMKUZHI, THIRUVANANTHAPURAM**

BY ADV. SRI.E.S.ASHRAF

RESPONDENTS - RESPONDENTS:

- 1. STATE OF KERALA REPRESENTED BY ITS
PRINCIPAL SECRETARY, HOME DEPARTMENT
GOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM**
- 2. THE DIRECTOR GENERAL OF POLICE
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM**
- 3. SRI. RUSTOM, DY.S.P., NEYYATTINKARA
THIRUVANANTHAPURAM**
- 4. SUB INSPECTOR OF POLICE, KANJIRAMKULAM
POLICE STATION, THIRUVANANTHAPURAM**
- 5. JOHN DAS, S/O. DASSYAN, DAS BHAVAN
PONGIL, VENPAKAL, ATHIYANNOOR, MULLUVILA
NEYYATTINKARA, THIRUVANANTHAPURAM**

R5 BY ADV. SRI.V.G.ARUN (K/795/2004)

R5 BY ADV. SRI.ANOOP BHASKAR

BY PUBLIC PROSECUTOR SMT. V.H.JASMINE

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 12-06-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE A1 COPY OF THE REFER REPORT SUBMITTED BY THE 4TH
RESPONDENT BEFORE THE HONOURABLE JUDICIAL FIRST
CLASS MAGISTRATE COURT-III, NEYYATTINKARA**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

R.P.No.438 of 2015

In

W.P.(C) No.22971 of 2013

Dated this the 12th day of June, 2015

O R D E R

The petitioners herein are the victims of offence in crime No.30/2013 of the Kanjiramkulam Police Station, registered under Section 420 IPC and Section 40 of the Money Laundering Act, and Sections 13 and 17 of the Kerala Money Lender's Act. They brought W.P.(C) No.22971/2013 for a writ of mandamus directing fair investigation in the crime. During the said proceeding the police submitted report that investigation is over, and that the police has already submitted final report in court. In such a situation, the writ petition was closed by the court on the finding that no writ or order otherwise was required when investigation was already over and final report was submitted in court. Now, the writ petitioners seek review of the judgment in the writ petition dated 06.04.2015 on the ground that the writ petition happened to be closed on a wrong submission made by the learned Public Prosecutor. It is submitted that in fact the

final report submitted by the police in the court is a report referring the crime, on the ground that the dispute is purely civil in nature.

2. The 5th respondent, who contested the matter, filed reply affidavit stating that the transaction between the parties is purely a civil transaction, and that the civil litigations between the parties are pending. He has also produced documents showing the pending litigation between the parties, including orders already passed by the civil court and modified by this Court in appeal. In such a factual situation, I find no reason to review the order passed by the court. Right or wrong, there is final report in court filed by the police after necessary investigation. The petitioners will have remedies under the Code of Criminal Procedure as against the final report submitted by the police. Without prejudice to their right to pursue appropriate remedies as regards the final report, this review petition can be closed. No doubt, the court below will hear all the parties including the 5th respondent in taking decision on final report submitted by the police. If the transaction is really of a civil nature, which does

not involve the elements of the offence alleged by the petitioners, that also be considered by the court below. Any way, appropriate decision as regards final report be taken by the court below. It is clarified again that the petitioners will have the right to pursue appropriate remedies under the Code of Criminal Procedure as regards final report submitted in court.

In the result, this review petition is dismissed, without prejudice to the right of the writ petitioners to seek appropriate remedies from the court below.

Sd/-

P. UBAID, JUDGE

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