

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

RP.No. 853 of 2015 IN WA.1897/2015

AGAINST THE JUDGMENT IN WA 1897/2015 of HIGH COURT OF KERALA
DATED 1.9.2015.

REVIEW PETITIONER(S)/APPELLANT:

K.PREMARAJ
MAKKANHIRATTE HOUSE, ERAMALA P.O., KOZHIKODE
PIN-673501.

BY SRI.K. PREMRAJ - PARTY IN PERSON

RESPONDENT(S)/RESPONDENTS:

1. THE MANAGING DIRECTOR, MIMS HOSPITAL
GOVINDAPURAM P.O., KOZHIKODE, PIN-673016.
2. THE SUPERINTENDENT OF POLICE
CRIME BRANCH, CHALLAPURAM P.O., KOZHIKODE-673002.
3. THE CORPORATION SECRETARY
KOZHIKODE CORPORATION, KOZHIKODE BEECH P.O.
PIN-673032.

BY SRI.DEVAPRASANTH.P.J.
BY Sr.GOVERNMENT PLEADER SRI.T.P.SAJID
BY SRI.K.D.BABU,SC,KOZHIKODE CORPORATION

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 30-09-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ami/

**ASHOK BHUSHAN, C.J. &
A.M.SHAFFIQUE, J.**

Review Petition No.853 of 2015

Dated this the 30th day of September, 2015.

O R D E R

ASHOK BHUSHAN, C.J.

The review petitioner has appeared in person praying for a review of judgment dated 1.9.2015 in W.A.No.1897 of 2015, by which, the writ appeal filed by the appellant therein, filed against the judgment of the learned Single Judge dated 30.7.2015, has been dismissed. The petitioner, who appeared in person, by referring to paragraph 2 of the writ appeal judgment, has submitted that this Court has noticed in that paragraph that the learned Single Judge, after hearing the petitioner and referring to an earlier Division Bench judgment, dismissed the writ petition observing that the prayer cannot be entertained after more than 10 years. It is now submitted by the petitioner that he has approached this Court, not after the lapse of 10 years. He further submits that the learned Single Judge ought to

have considered the petitioner's claim for damages and compensation, and further that the refer report submitted by the police was not correct and there was material to indicate, especially in the report, that allegations made by the petitioner are correct.

2. It is to be noted that the appeal was heard in detail. In paragraph 5 of the judgment, we have already noticed that the Division Bench by its judgment dated 12.12.2008 has already observed that for claiming compensation, the remedy of the appellant is to approach the civil court, where all the issues can be raised and decided. The petitioner has submitted that the judgment of the Apex court is to the effect that, the petitioner can come up in a writ before this Court under Article 226 of the Constitution of India claiming damages. There cannot be any dispute to the proposition that in appropriate cases, this Court can also entertain a writ petition under Article 226 of the Constitution of India ; but in the present case, as a Division Bench has already

dismissed the writ petition on 12.12.2008, this Court cannot sit in appeal against the said judgment, or take any other view. As far as the petitioner's submission, that the police committed mistake in submitting the refer report, is concerned, it is suffice to say that, Cr.P.C. provides appropriate remedy to the petitioner, which was already observed by us in the judgment. We do not find any good ground to review the said judgment. Hence, this review petition is dismissed.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A.to Judge