

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WA.No. 815 of 2015 IN WP(C).30142/2013

AGAINST THE JUDGMENT IN WP(C) 30142/2013 DATED 17-06-2014

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APPELLANT/(PARTY IN PERSON)/PETITIONER IN WPC :

MURALEEDHARAN R.M. AGED 43 YEARS
S/O.RAMAKRISHNAN UNNI, MURALEEBHAVANAM, MAYITHARA P O
CHERTHALA, ALLEPPEY DIST

BY ADV. R.M.MURALEEDHARAN (PARTY-IN-PERSON)

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA
REP BY ITS SECRETARY, DEPARTMENT OF HOME AFFAIRS
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001
2. THE DISTRICT SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
ALAPPUZHA DIST
3. THE DEPUTY SUPERINTENDENT OF POLICE
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE
CHERTHALA, ALAPPUZHA DIST
4. THE CIRCLE INSPECTOR OF POLICE
CHERTHALA, O/O.THE CIRCLE INSPECTOR OF POLICE
CHERTHALA, ALAPPUZHA DIST
5. THE CIRCLE INSPECTOR OF POLICE,
MARARIKULAM
OFFICE OF THE CIRCLE INSPECTOR OF POLICE
MARARIKULAM, ALAPPUZHA DIST
6. THE SUB INSPECTOR OF POLICE
MARARIKULAM POLICE STATION, ALAPPUZHA DIST

7. DR. DALIA.S
ASSISTANT PROFESSOR (OPHTHALMOLOGY),
MEDICAL COLLEGE HOSPITAL,
ALAPPUZHA DIST

R1 TO R6 BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 815 OF 2015

Dated this the 30th day of July, 2015

JUDGMENT

Shaffique,J.

This appeal is filed by the petitioner in W.P.(C) No.30142 of 2013 challenging the judgment dated 17.06.2014 of the learned Single Judge. The writ petition is filed seeking for a direction to the Government to conduct further investigation in CC No.733 of 2011 on the files of Judicial First Class Magistrate Court, Alappuzha by an officer not below the rank of Inspector General of Police.

2. Allegations raised in the writ petition is that the petitioner is the defacto complainant in Crime No.337 of 2011. After conducting investigation the case was charge sheeted against the accused under Sections 323, 324, 341 r/w Section 34 of Indian Penal Code and is pending before the Judicial First Class Magistrate Court as CC No.733 of 2011. According to the petitioner, investigation was not properly conducted. In the incident which related to the registration of crime and further

investigation, the petitioner sustained serious injuries and even he had fracture to his jaw and his teeth and his bones were broken. Therefore, his submission is that the police ought to have registered a case under Section 326 of IPC as well. It is on this allegation that this writ petition has been filed seeking the relief as aforesaid.

3. Learned Single Judge, after considering the averments in the writ petition in detail, has observed that the petitioner had already filed a petition before the Court particularly seeking further investigation, which was allowed by the Court. Further investigation was conducted and further documents were collected and report was also filed.

4. The learned Judge observed that if the court below after taking evidence is satisfied that more grave offence had been committed and other persons are also involved as alleged by the petitioner, can take appropriate steps in the matter. Therefore, when remedies are available to the petitioner and there is no restriction on the power of the Court dealing with the case to pass appropriate orders, the learned Single Judge did not

find it necessary to issue a direction as sought for by the petitioner.

5. The appellant, who appeared in person, has submitted that though summons was issued in the pending case, on account of fear of life, he did not appear before the Magistrate and accordingly, warrant is pending.

6. Be that as it may, if the petitioner has a case that the police had not properly conducted the investigation, as the learned Single Judge has already observed that on the basis of evidence that may be adduced in the matter, it is always open for the court or the investigating officer to take appropriate proceedings in accordance with law. If the petitioner has any fear to appear before Magistrate, of being threatened by the persons who were accused in the case or any other person, it is always open for him to approach the local police, who shall render necessary protection to the petitioner to appear before the Magistrate.

In the facts and circumstances of the case we do not find it necessary to interfere with the judgment of learned Single

Judge. We only observe that if the petitioner has any fear to appear before the Magistrate, on an application by the petitioner, the local police shall render necessary protection to the petitioner to appear before the Magistrate.

With the above observation, the Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**