

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 3978 of 2012 (V)

PETITIONER(S):

SAJI THURUTHIKKUNNIL @ SAJI T.T
S/O. THANKAPPAN, AGED 39 YEARS, THURUTHIKKUNNEL HOUSE
VADAYAMPADY, KOLENCHERRY.

BY ADV. SRI.PAUL K.VARGHESE

RESPONDENT(S):

1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY (HOME DEPARTMENT)
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-1.

2. THE DEPUTY SUPERINTENDENT OF POLICE
MUVATTUPUZHA-686661.

3. THE CIRCLE INSPECTOR OF POLICE
PUTHENCROUZ POLICE STATION, PUTHENCROUZ-682308.

4. THE SUB INSPECTOR O POLICE
PUTHENCROUZ POLICE STATION, PUTHENCROUZ-682308.

BY GOVERNMENT PLEADER SRI.GITHESH R.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 3978 of 2012

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF JUDGMENT IN CC.NO.453/2001 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KOLENCHERRY DATED 5.12.2005.

EXHIBIT P2: COPY OF THE JUDGMENT IN CC.NO.217/2002 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KOTHAMANGALAM, DATED 16.7.2007.

EXHIBIT P3: COPY OF APPLICATION SUBMITTED BY THE PETITIONER TO THE INFORMATION OFFICER, PUTHENCROUZ POLICE STATION DATED 31.10.2011.

EXHIBIT P4: COPY OF STATEMENT GIVEN BY THE SUB INSPECTOR OF POLICE, PUTHENCROUZ POLICE STATION TO THE PETITIONER DATED 9.11.2011.

/TRUE COPY/

PS TO JUDGE

vgs

ALEXANDER THOMAS, J.

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W.P.(C).No. 3978 of 2012

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Dated this the 16th day of July, 2015

J U D G M E N T

It is averred that the petitioner is the District Secretary of a political party by name, "Sivasena" and that with respect to certain civil disputes between the family of the petitioner and one Sunil George, the petitioner and his brother were coerced by Sri.Jiji Mon, the Circle Inspector of Police, Puthencruz Police Station, to settle the said property disputes. That as the demand was unreasonable and unlawful, the petitioner and his brother had expressed their unwillingness, which resulted in enmity on the part of the said Police officer, Sri.Jiji Mon, against the petitioner and his brother and that the said Police officer managed to register criminal cases against the petitioner and his brother, to strengthen the civil case of the petitioner's rival claimant. That in this regard the petitioner and his brother were acquitted as per Ext.P-1 judgment dated 5.12.2005 in C.C.No.453/2001 on the file of the Judicial First Class Magistrate's Court, Kolencherry (arising out of Crime No.364/2000

of Puthencruz Police Station for offences under Sec.379 read with Sec.34 of the I.P.C.). That apart from this, the said Police officer had again falsely implicated the petitioner and his brother, in another case in Crime No.161/2001 of Oonnukal Police Station, for offences under Secs.143, 147, 452, 506(ii) read with Sec.149 of the I.P.C. That the Judicial First Class Magistrate's Court, Kothamangalam, as per Ext.P-2 judgment dated 16.7.2007 in C.C.No. 217/2002, had acquitted the petitioners in that case arising out of Crime No. 161/2001 of Oonnukal Police Station. That at the instance of the said Police officer, the petitioner and his brother were included in the rowdy list of Puthencruz Police Station and that the petitioner is aggrieved by such action and the prayer in the present in this petition is for a direction to the 2nd and 3rd respondent to remove the name of the petitioner from the rowdy list exhibited in Puthencruz Police Station, etc.

2. It is pointed out that the petitioner had made an application as per Ext.P-3 under the Right to Information Act to know the basis of on which the petitioner's name has been included in the rowdy list, to which Ext.P-4 reply has been by the Puthencruz Police Station, stating that it has been so done in pursuance of the

provisions contained in Rule 259 of the Kerala Police Manual Vol.II and that the action was taken in that regard on the basis of the Deputy Superintendent's of Police letter dated 28.9.2009.

3. Heard Sri.Paul K.Varghese, learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

4. As directed by this Court the Circle Inspector of Police, Puthencruz has filed a statement dated 29.6.2015 in this case stating that the petitioner was included in the said rowdy list as he was involved in many criminal cases, etc. However, from a perusal of the said statement it is clear that the petitioner has already been acquitted in all those cases. The said statement has quoted provisions of Rule 259 of the Kerala Police Manual, which reads as follows:

“Sec.259(1) This is a record maintained individually KPF 174(D) to keep a progressive record and watch of the activities of person found to be indulging in rowdyism. These sheets will be opened on the orders of the Sub Divisional Police Officer or any higher authority on the basis of reports from the local police from other sources.–

(2) The main forms of rowdyism are:–

- (1) Indecent behaviour towards women and girls at educational centres, bus stands, parks, Railway Stations, running trains etc., by passing abuse remarks etc. This is popularly known as “Eve teasing”
- (2) Habitually committing affray and rioting.

- (3) Habitually committing offence involving stabbing (324 I.P.C.)
- (4) Threatening and beating up prosecution witnesses in court premises and forcing them to turn hostile, by hirelings employed by political parties, moneyed people etc.
- (5) Intimidation of peace loving people by acts of violence or by show or force or by abusive language.
- (6) Rowdyism in Cinema Halls, theatres, sports stadiums, milk booths, bus stands, toddy shops, running trains etc.
- (7) Habitual gambling, smuggling of food grains and illicit distillation.
- (8) Forcible collection of subscriptions.
- (9) Drunken and disorderly behaviour.
- (10) Decoying persons to houses of ill repute by pimps.
- (11) Snatching of gold chains etc.
- (12) Any other anti-social activity associated with violence.

xxx

xxx

xxx”

5. The petitioner has filed a reply affidavit dated 8.7.2015, in which, it is stated that all those cases have ended in acquittal and that the petitioner was included in the rowdy list only due to enmity of the aforestated Police officer in respect of the incidents, which led to his acquittal as per Exts.P-1 an P-2 judgments. It is further stated that the petitioner is not presently residing within the limits of Puthencruz Police Station and that he is residing within the limits of Thripunithura Police Station and that therefore the Police officers,

who have jurisdiction over the Puthencruz Police Station, have no power or competence to include the name of the petitioner in the rowdy list, as he is now residing within the limits of a different Police Station. The petitioner has also stated that his address is *"Sri.Saji Thurthikkunnel, C/o.Sri.Suresh Subramaniam, Door/House No.66A, Ward No.9, Eroor Municipality"*, . In the light of these aspects, this Court, by order dated 10.7.2015, had requested the Public Prosecutor to get instruction from the Station House Officer of the Thripunithura Police Station as to whether the petitioner is now residing within the aforementioned location within the territorial limits of the Sub Inspector of Police, Thripunithura. The learned Public Prosecutor has submitted, on instructions from the Station House Officer, Thripunithura Police Station, that the petitioner is now residing within the Thripunithura Police Station limits. From a reading of the details given in the aforestated statement about the cases, in which the petitioner was involved, it is seriously open to doubt whether the strict stipulations contained in Rule 259 are completely satisfied. Moreover, the petitioner has been acquitted in those cases.

6. As the petitioner has been acquitted in almost all the cases and he is now residing outside the territorial limits of the

Puthencruz Police Station, it is not necessary to go into the merits of the rival allegations, except to say that it is no longer necessary to include his name in the list meant for Puthencruz Police Station as he is no longer residing there. Accordingly, the impugned proceedings are set aside. However, the Station House Officer of the Thripunithura Police Station and his superior officers would be at liberty to take appropriate action in accordance with law, if so warranted in future.

With these observations and directions, this Writ Petition (Civil) stands finally disposed of.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge