

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 744 of 2015 (P)

PETITIONER:

MRS. USHA SUDHAKARAN, AGED 56 YEARS,
W/O.LATE SUDHAKARAN, MANCHAKKATTIL HOUSE,
THIRUVANKULAM P.O., ERNAKULAM-682 005.

BY ADV. SRI.K.V.SABU

RESPONDENTS:

1. SUB INSPECTOR OF POLICE,
CENTRAL POLICE STATION, ERNAKULAM-682 031.
2. THE CIRCLE INSPECTOR OF POLICE,
CENTRAL POLICE STATION, ERNAKULAM-682 031.
3. COMMISSIONER OF POLICE, LAW & ORDER
KOCHI CITY, ERNAKULAM-682 031.
4. SUPERINTENDENT OF POLICE
CBCID, ERNAKULAM-682 017.
5. THE DGP OF KERALA,
LAW & ORDER, POLICE HEAD QUARTERS
THIRUVANANTHAPURAM-695 004.

R1-R5 BY SR.GOVERNMENT PLEADER SRI. SHIBU JOSEPH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 744 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1.A TRUE COPY OF THE FIR AND FIS IN CRIME NO.1929/2012.

EXT.P2.TRUE COPY OF THE COMPLAINT DATED 12/7/2014 FILED BEFORE THE 2ND RESPONDENT

EXT.P3.TRUE COPY OF THE REPRESENTATION BEFORE THE CHIEF MINISTER OF KERALA DATED 23/7/2014.

EXT.P4.TRUE COPY OF THE LETTER DATED 29/7/2014 UNDER RIGHT TO INFORMATION ACT BEFORE THE INFORMATION OFFICER, CENTRAL POLICE STATION.

EXT.P5.TRUE COPY OF THE REPLY DATED 27/8/2014 SIGNED BY THE 1ST RESPONDENT

RESPONDENTS' ANNEXURE

ANNEXURE-R1(a) COPY OF THE COMMUNICATION GIVEN BY THE REGISTRAR (JUDICIAL) OF THIS COAURT DATED 9.6.15.

/TRUE COPY/

P.S TO JUDGE

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K. RAMAKRISHNAN, J.

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W.P.(C).No.744 of 2015
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Dated this the 23rd day of September, 2015.

JUDGMENT

This Writ petition is filed by the petitioner, who is the defacto complainant in the case to hand over investigation to some other agency under Article 226 of the Constitution of India.

2. It is alleged in the petition that petitioner is the defacto complainant in Crime No.1929/2012 of Ernakulam South police station evidenced by Ext.P1 against accused person alleging offences under sections 420, 465, 471 and 120 (b) of the Indian Penal Code. Since, no action was taken she filed Ext.P2 petition before the second respondent which also revoked no response. So she filed Ext.P3 petition before the Chief Minister of Kerala and also filed a petition before the Information Officer seeking information regarding steps taken regarding the investigation under the Right to Information Act and Ext.P4 reply was received. Dissatisfied with the investigation conducted, the petitioner moved this Court seeking a direction to be given to the respondents to conduct a

proper investigation or to entrust the investigation to other agency. Hence this petition.

3. Respondents 1 and 2 filed statement and also additional statement in which they have stated that they are conducting the investigation but the complainant had not produced the alleged forged document to be sent for expert opinion and that an application has been filed before this Court on the administrative side but that was not allowed and that was the reason why the investigation could not be proceeded with.

4. Heard both sides.

5. The case of the petitioner in the petition was that certain documents including vakalath produced in the writ petition filed before this court were produced by forging her signature by the accused persons in Ext.P1 crime. When this was known to her, she filed a complaint and on the basis of which, ExtP1 First Information Report was registered. Since investigation was not proceeded with in spite of registration of crime in the year 2012, the petitioner approached this court for entrusting the investigation to some other agency. The stand

taken by the investigating officer in the statement filed was that the petitioner has not produced the documents alleged to have been forged for the purpose of sending the same to expert. They also mentioned the same in one of the reports and produced Annexure R1(a) that a petition has been moved on the administrative side of this court for getting the document and a reply has been received that they will have to move for this purpose before judicial side. Thereafter it is seen that no steps have been taken by the investigating officer. When there was an allegation of forgery and if the documents are in the custody of the court, the complainant will not get original documents so as to enable her to produce the same before the investigating officer in connection with the investigation. It is for the investigating officer to take necessary steps to get the documents by invoking the provisions in the Code of Criminal Procedure for seizing the document or getting the documents from the court in the process known to law.

6. When this was pointed out to the learned Public Prosecutor, he submitted that he will be taking necessary steps to move the court on judicial side to get those documents and

the present investigation agency will conduct the investigation in the right direction. In view of the undertaking given by the learned Public Prosecutor, this court feels that there is no necessity to entrust the investigation to some other agency as without getting documents from court and getting expert opinion of that document, they cannot proceed with the investigation as well. So the submission made by the the Public Prosecutor that he will take necessary steps to get documents from court by filing necessary application before court in which documents were said to have been produced and proceed with the investigation in the proper direction. So the petition is disposed of accordingly with liberty for the petitioner to move this court or the authority concerned, if petitioner is not satisfied with the outcome of the investigation.

With the above directions and observations, this writ petition is disposed of.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.s to Judge

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