

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 7101 of 2014 (K)

PETITIONER(S):

1. RAMANI, AGED 59 YEARS
W/O.SATHYASEELAN, G.S.BHAVAN, KOONTHALLOR
CHIRAYINKEEZHU, THIRUVANANTHAPURAM, PIN-695304.
2. SATHYASEELAN, AGED 71 YEARS
S/O.PADMANABHANKUTTY, G.S.BHAVAN, KOONTHALLOR
CHIRAYINKEEZHU, THIRUVANANTHAPURAM, PIN-695304.

BY ADVS.SRI.S.K.SAJU
SRI.A.RANJITH NARAYANAN
SMT.A.SIMI

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE LEARNED PUBLIC PROSECUTOR
HIGH COURT OF KERALA
REPRESENTING THE S.I. OF POLICE
CHIRAYINKEEZHU POLICE STATION
THIRUVANANTHAPURAM-695304.
2. INSPECTOR GENERAL OF POLICE (SOUTH ZONE),
THIRUVANANTHAPURAM, PIN-695012.
3. REJIN,, AGED 22 YEARS
S/O.RAJAN, AMMUMMA VEEDU, NEAR 2ND RAILWAY GATE
VAKKOM P.O., THIRUVANANTHAPURAM-695308.
4. PADMAKUMAR ALIAS PAPPAN,, AGED 31 YEARS
S/O.UTHAMAN, UDUKKUVILAKAM VEEDU
NEAR 1ST RAILWAY GATE, VAKKOM P.O.
THIRUVANANTHAPURAM-695308.
5. KUMAR,, AGED 44 YEARS
TC.39/1494, LAKSHMI NIVAS, KALYAN HOSPITAL NAGAR
ARYASALA, THIRUVANANTHAPURAM-695034.

R1,R 2 BY ADV. STATE ATTORNEY SRI.P.VIJAYARAGHAN
R1 & R2 BY GOVERNMENT PLEADER SMT.P.MAYA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF THE PAPER REPORT DATED 04.05.2009.
- EXT.P2: COPY OF THE RELEVANT PORTIONS OF CONFESSION STATEMENT MADE BY THE 3RD RESPONDENT.
- EXT.P3: COPY OF THE F.I.R. IN CRIME NO.159/09 OF PANGODE POLICE STATION, THIRUVANANTHAPURAM.
- EXT.P4: COPY OF THE FINAL REPORT SUBMITTED BY THE POLICE IN CRIME NO.156/2009 BEFORE THE JFMC-ATTINGAL.
- EXT.P5: COPY OF THE COMPLAINT DATED 18.09.2009 SUBMITTED BY THE 2ND PETITIONER BEFORE THE DEPUTY SUPERINTENDENT OF POLICE, THIRUVANANTHAPURAM.
- EXT.P6: COPY OF THE CRIMINAL MISCELLANEOUS PETITION NO.8344/2009 FILED BY THE 2ND PETITIONER BEFORE THE JFMC-ATTINGAL.
- EXT.P7: COPY OF THE ORDER DATED 15.12.2009 PASSED BY THE LEARNED JFMC-ATTINGAL IN C.M.P.NO.8344/2009 IN C.C.NO.763/2009.
- EXT.P8: COPY OF THE REPORT DATED 31.05.2011 SUBMITTED BY THE C.I. OF POLICE BEFORE THE LEARNED JFMC-ATTINGAL.
- EXT.P9: COPY OF THE COMPLAINT DATED 21.02.2012 ALONG WITH RECEIPT SUBMITTED BY THE 2ND PETITIONER BEFORE THE SUPERINTENDENT OF POLICE, THIRUVANANTHAPURAM.
- EXT.P10: COPY OF THE COMPLAINT DATED 19.12.12 ALONG WITH ITS RECEIPT SUBMITTED BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.
- EXT.P11: COPY OF THE APPLICATION DATED 11.02.13 FILED BY THE 2ND PETITIONER BEFORE THE DEPUTY SUPERINTENDENT OF POLICE, ATTINGAL UNDER THE RIGHT TO INFORMATION ACT.
- EXT.P12: COPY OF THE REPLY DATED 09.03.2013 ISSUED BY THE DY.SP. ATTINGAL TO THE 2ND PETITIONER.
- EXT.P13: COPY OF THE REPRESENTATION DATED 26.08.13 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**W.P (C) No.7101 of 2014**  
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Dated this the 5th February, 2015

J U D G M E N T

The petitioners seek a writ of mandamus for further investigation in Crime No.156 of 2009 of the Chirayinkeezhu Police Station. Now there is a report that everything including further investigation is over, and the Police has submitted report in court. There are three accused in the final report submitted by the Police. In the F.I.R also, there are only three accused. The report received from the trial court shows that cognizance was taken against three accused named in the final report, and that warrant of arrest is now pending against third accused. Now the grievance of the petitioners is that the Police has not in fact arrested the right person arraigned as the third accused in the final report. This will have to be looked into by the trial court when the case proceeds for trial. If the person now arrested by the police as the third accused, and produced in court, is not the real third accused, the petitioners can point out this to the trial court, and this will

be properly looked into and considered by the trial court. No doubt, if the police has committed any mistake, it will be dealt with by the trial court. In the present circumstance where everything is over, and there is further report of further investigation also, I do not find the necessity of granting any orders in this proceeding.

With the above observations, this writ petition is closed.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge

The prayer sought in this writ petition is direction for further investigation in Crime No.159 of 2009 of Pangode Police Station, later transferred to Chirayinkeezhu Police Station, where it was re-registered as Crime No.156 of 2009. Pending the proceedings, further investigation was however conducted as ordered by the court, and the police submitted report of investigation. The learned Magistrate acted on it, and the case was posted for trial. The learned counsel for the petitioner now submits that nothing new was done by the police as part of further investigation, and the police has not been able to recover the stolen property. It is submitted that the 3rd accused to whom the other accused sold the property is well available at the locality, but the police, on

some pressure or otherwise, avoids arrest of the 3rd accused. The petitioner affirms that he is still available, and he can point out the 3rd accused to the Investigating Officer. If so, the Investigating Officer will record the statement of the petitioner, make efforts to detect the 3rd accused, and submit report in court.

Post after three weeks.

**P.UBAID
JUDGE**

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