

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

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

WP(C) .No. 11189 of 2015 (W)

PETITIONER(S) :

K. PREMRAJ,
MAKKANHIRATTE HOUSE, ERAMALA P.O.,
KOZHIKODE - PIN : 673 501.

BY ADV. K.PREMRAJ (PARTY-IN-PERSON) .

RESPONDENT(S) :

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1. THE MANAGING DIRECTOR,
MIMS HOSPITAL,
GOVINDAPURAM P.O.,
KOZHIKODE - PIN : 673 016.
 2. THE SUPERINTENDENT OF POLICE,
CRIME BRANCH, CHALAPURAM P.O.,
KOZHIKODE.PIN - 673 002.
 3. THE CORPORATION SECRETARY,
KOZHIKODE CORPORATION, KOZHIKODE BEACH P.O.,
KOZHIKODE. PIN - 673 032.

R1 BY ADV. SRI.DEVAPRASANTH.P.J.,
R2 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL &
BY GOVERNMENT PLEADER SRI. T.P.SAJID.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P-1: COMPLANT TO MIMS CHAIRMAN DATED 12.4.2004.
- EXT.P-2: WITNESS CHIEF AFFIDAVIT IN ID/26/07 DATED 9.3.2015.
- EXT.P-3: TOXICOLOGY REPORT OF AMRUTHA HOSPITAL POISON CONTROL DEPT. DATED 23.12.2004.
- EXT.P-4: LETTER RECEIVED FROM ADGP OFFICE DATED 6.10.2008.
- EXT.P-5: LETTER RECEIVED FROM MEDICAL COLLEGE C.I. OFFICE DATED 14.8.2008.
- EXT.P-6: SHAW CAUSE NOTICE DATED 8.1.2005.
- EXT.P-7: ENQUIRY REPORT PAGE 20 DATED 11.11.2005.
- EXT.P-8: SHAW CAUSE NOTICE DATED 5.5.2005.
- EXT.P-9: CROSS EXAMINATION OF ENQUIRY OFFICER PAGE 1, 2, 3, IN ID 26/07 DATED 18.5.2012.
- EXT.P-10: ENQUIRY REPORT PAGE 12, 25, 38, 39, 40. DATED 11.11.2005.
- EXT.P-11: ORDER OF MFA 9/98 DATED 03/04/2000.
- EXT.P-13: REPLACED STATEMENT OF ALLEGATION DATED 30.5.2005.
- EXT.P-14: TECHNICIAN LETTER TO MIMS DATED 14.5.2005 3.4.2000.
- EXT.P-12: ORIGINAL STATEMENT OF ALLEGATION DATED 30.5.2005.
- EXT.P-15: LETTER OF SENIOR MANAGER TO VOLTAS. DATED 14.9.2004.
- EXT.P-16: ORDER OF WPC 25436/2008. DATED 17.12.2008.

RESPONDENT(S) ' EXHIBITS :

- EXT.R1(A): THE COPY OF THE WRIT PETITION NO.25436/2008 FILED BY THE PETITIONER.
- EXT.R1(B): THE COPY OF THE COUNTER AFFIDAVIT FILED BY THIS RESPONDENT AS 10TH RESPONDENT IN WP(C) NO.25436/2008.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J

W.P(C) No. 11189 of 2015

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner claims to have been working with the 1st respondent from 01.04.2001 to 12.05.2005 as a maintenance supervisor. The petitioner is said to have filed many writ petitions before this Court and it is also stated that the petitioner has been granted a police protection order. The same are however, not produced with the writ petition. The petitioner's complaint is with respect to the poisoning alleged to have been made through the food consumed by the petitioner and the harassment on account of various complaints raised without basis. In any event, an industrial dispute is said to have been raised, which is still pending consideration.

2. The 1st respondent has filed a detailed counter affidavit and so has the State filed a statement. The statement of the State reveals that the Sub Inspector of Police, Medical College

Police Station, Kozhikode City received a complaint from the petitioner on 17.04.2007 alleging that he was poisoned by the authorities of the hospital in which he was working, i.e, the hospital under the 1st respondent. The Sub Inspector is said to have conducted a preliminary enquiry and finding the allegation to be baseless has referred the matter. It is also specifically averred that the alleged incident was of the year 2004 and the petitioner had filed the complaint before the Police authorities only in the year 2007, i.e, after a lapse of 3 years.

3. The petitioner, infact, has produced a complaint dated 7.01.2005 (Ext.P4) which he is said to have filed before the Police Commissioner, Sub Inspector, etc. No substantiated materials have been produced to indicate such a complaint having been filed on the date specified. Further, the petitioner could have taken the remedies under the Criminal Procedure Code which he has not done till date.

4. One other issue that assumes significance is the

earlier writ petition filed by the petitioner on almost similar grounds. The judgment alone is produced at Ext.P16. The 1st respondent has produced the said writ petition bearing No. W.P(C) 25436/2008 in which the reliefs sought for are indicated herein:

1. Issue a writ of mandamus or any other appropriate writ order of direction to R1 R2 R4 to R7 to give adequate police protection to the life of the petitioner from poisoning or R10 R11 and their goondas and other attacks. 3rd respondent Crime Branch Superintendent may be directed to charge case against R10 and R11 on Ext.P2 and investigate case who are supporting R10 and R11 for poisoning any try to kill the petitioner. R9 may be directed to make proper diagnose of poison treatment.
- ii. R8 labour court kozhikode may be directed to dispose of ID 26/07 case fearlessly and

Hon'ble Court may be pleased to supervise the same.

iii. Hon'ble Court may be pleased to give compensation of Rs.10 lakhs from R10 and R11.

5. The reliefs sought for in the present writ petition are also extracted herein.

i. Hon'ble Court may be pleased to order Rs.25 lakhs compensation from R1 MIMS Hospital Management

ii.R2 superintendent of crime branch may be directed to charge case against R1 MIMS hospital Enquire case and stop poison and attack against petitioner and relatives and enquire the activities of the MIMS directors.

iii.R3 Kozhikode Corporation Secretary may be directed to stop function MIMS, this hospital may cause evil to society.

6. At the earlier instance, it was clearly found by the Division Bench that the issue whether the 1st respondent or the management of the hospital is responsible for the alleged poisoning cannot be decided without evidence and as for the compensation, the petitioner was directed to approach the civil court. On the question of police protection, it was directed that if any complaint is received, appropriate action would be taken. In the present case also, the petitioner claims compensation; which cannot be allowed especially since it was rejected earlier in another writ petition under Article 226. The 2nd prayer for conducting an investigation by the Crime Branch also cannot be proceeded with at this stage, since, even going by the admission of the petitioner the petitioner had been working under the 1st respondent only till 12.05.2005. The claim is grossly delayed and the very same relief in another form was prayed for in the earlier writ petition also, which stood rejected. There is absolutely no material produced to compel this Court to direct the 3rd respondent

to stop the functioning of the hospital especially since there are no allegations raised about the hospital as such other than the rather wild charges of harassment and poisoning of the petitioner; which till date stands unsubstantiated.

The writ petition is found to be totally devoid of merit and the same stands dismissed. Parties to suffer their respective costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge