

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 11773 of 2014 (V)

PETITIONER:

**THANKACHAN M.S.
S/O. LATE SEBASTIAN, MUNHANATTU HOUSE, NOOLPUZHA P.O.
SULTHAN BATHERY - 673 592**

**BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND**

RESPONDENTS:

- 1. THE STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM - 695001.**
- 2. DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM -695 001.**
- 3. ADDITIONAL DIRECTOR GENERAL OF POLICE
NORTHERN RANGE, KOZHIKODE - 673 001.**
- 4. DISTRICT POLICE CHIEF
WAYANAD, KALPETTA - 673 122.**
- 5. DISTRICT COLLECTOR,
WAYANAD, KALPETTA- 673 122.**
- 6. M.A. SANTHOSH
SUB INSPECTOR OF POLICE, SULTHANBATHERY -673 592.**

7. SHIBIN THADIKKULAGARA
S/O. JACOB, NEAR ST. MARY'S COLLEGE, KUPPADI P.O.
SULTHANBATHERY -673 592.
8. SIJO JACOB
S/O. JACOB, THADIKKULANGARA HOUSE, CHUNDAKUZHY
VENGOOR P.O., PERUMBAVOOR - 683 546.
9. P.D. RAPHEL,
S/O. DEVASSY, PALATHINKAL HOUSE, GEETHA BHAVAN
NEAR CATHOLIC PASTORAL CENTRE
JUBILEE MISSION POST OFFICE, THRISSUR - 680 001.
- R9 BY ADVS. SRI.JAIBY PAUL
SMT.ANITA GLENDA PHILIP
SMT.BABY SONIA
- R8 BY ADVS. SRI.P.J.SAGAR
SRI.RENISH RAVEENDRAN
SRI.P.ARUN
- R7 BY ADV. SRI.K.S.ANEESH
R6 BY ADV. SRI.A.V.JAMES
R1 - R5 BY SENIOR GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE ORDER IN I.A 1272/2011 IN O.S 374/2011 ON THE FILE OF THE MUNSIFF MAGISTRATE, SULTHANBATHERY DATED 13/06/2012.**
- EXHIBIT-P2- TRUE COPY OF THE NEWS ITEM APPEARED IN THE NEW INDIAN EXPRESS ON 06/02/2013.**
- EXHIBIT-P3- TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE 4TH RESPONDENT SUPERINTENDENT OF POLICE ON 09/03/2013.**
- EXHIBIT-P4- TRUE COPY OF THE JUDGMENT DATED 05/04/2013 IN W.P(C) 9177/2013.**
- EXHIBIT-P5- TRUE COPY OF THE MEMORANDUM OF SETTLEMENT DATED 03/09/2013.**
- EXHIBIT-P6- TRUE COPY OF THE REPORT NO. 163/CD-W/2013 DATED NIL OBTAINED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT.**
- EXHIBIT-P7- TRUE COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE THE 5TH RESPONDENT ON 10/02/2014.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

JJJ

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

W.P. (C) No. 11773 of 2014 (V)

Dated this the 6th day of April, 2015

J U D G M E N T

A.M.Shaffique, J.

The petitioner has approached this Court complaining harassment by the Police.

2. It is *inter alia* contended that the petitioner owns an extent of 2.25 acres of land in Kuppadi Village, Sulthanbatheri Taluk. The petitioner borrowed certain amount from respondents 6 and 7, by which the petitioner executed a registered document in their favour in respect of an extent of 1.67 acres and the dwelling house and promised that it would be re-conveyed on repayment of the borrowed amount. Though the petitioner raised sufficient amount and demanded re-conveyance, respondents 7 and 8 did not do so, whereas they trespassed into the property

and committed mischief by cutting and removing the trees. They have also threatened the petitioner and his family members. The petitioner's mother, brother and sister filed O.S. No. 374/2011 before the Munsiff- Magistrate Court, Sulthanbatheri, against respondents 7 and 8 seeking permanent prohibitory injunction, in which a temporary injunction application has been filed, which is pending consideration. The petitioner submits that he borrowed another amount of Rs.2 lakhs from the 9th respondent, of which Rs.1.52 lakhs was repaid. The 9th respondent called upon the petitioner to convey an extent of 50 cents of land in favour of another person. It was agreed that on repayment of the entire amount the property will be re-conveyed.

3. Having regard to the aforesaid factual situation and that the 9th respondent also trespassed into the property of the petitioner and committed waste, the

petitioner approached the 6th respondent, the then Sub Inspector of Police. According to the petitioner, the 6th respondent refused to register any crime and was favouring respondents 7 to 9. This, according to the petitioner, amounts to harassment by the Police.

4. The learned Government Pleader, on instructions, would submit that three crimes have been registered against the petitioner alleging mischief and the said cases have been charge sheeted as well.

5. Counter affidavit is filed by the 9th respondent *inter alia* stating that the 9th respondent is not a money lender. The said respondent had given Rs.2 lakhs as loan to the petitioner and the petitioner had repaid the said amount and the transaction has been closed. The contention that the respondent insisted the petitioner to convey 50 cents of property to another person, is denied.

6. Having regard to the averments made in the Writ Petition as well as the counter affidavit filed, we do not find any case of police harassment. If there is any allegation of trespass or any other criminal act by private respondents, it is always open for the petitioner to take appropriate proceedings in accordance with law. The averments do not disclose that the police has, in any way, interfered in the matter or harassed the petitioner.

7. The learned counsel for the petitioner submits that no action was taken by the police in regard to the complaints filed. This fact has been disputed by the learned Government Pleader. Even otherwise, even if the 6th respondent did not register any case, it is always open for the petitioner to avail of appropriate remedy under the Criminal Procedure Code.

Under such circumstance, we do not think that a case of harassment by Police is made out in this Writ Petition and accordingly this Writ Petition is dismissed.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M. SHAFFIQUE,
JUDGE.

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