

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ALEXANDER THOMAS

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No.11701 of 2015 (K)

PETITIONER/DE FACTO COMPLAINANT:

**DR.SUJA MATTAPILLIL GEORGE,AGED 61 YEARS,
W/O.P.R.BABU,ASWATHY GARDEN,
THIRUVANANTHAPURAM,PIN-695001.**

**BY ADVS.SRI.C.P.UDAYABHANU
SMT.T.V.ASWATHY
SMT.P.AMENISHA
SRI.BALU TOM**

RESPONDENT'S:

- 1. S.I.OF POLICE,KAZHAKUTTAM POLICE STATION,
(CRIME NO.96/2015),THIRUVANANTHAPURAM,PIN-695582.**
- 2. SUPERINTENDENT OF POLICE,
THIRUVANANTHAPURAM RURAL-695001.**
- 3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

R1-R3 BY GOVT. PLEADER SMT.SAREENA GEORGE.

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

pk

WP(C).No.11701 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT-P1: CERTIFIED COPY OF THE FIR IN CRIME 96/15 OF KAZHAKUTTAM
POLICE STATION.**

**EXHIBIT-P2: COPY OF FIRST INFORMATION STATEMENT GIVEN BY THE
PETITIONER.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

ALEXANDER THOMAS, J.

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W.P.(C).No. 11701 of 2015

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Dated this the 4th day of June, 2015

J U D G M E N T

The petitioner herein is the defacto complainant in Ext.P-1 FIR in Crime No.96/2015 of Kazhakuttam Police Station, Thiruvananthapuram district, registered for offences punishable under Secs.294(b), 341, 354, 427 of I.P.C. Ext.P-1 FIR is registered on the basis of the first information statement given by the petitioner herein. The grievance projected in this case is that the 1st respondent-Sub Inspector of Police, Kazhakuttam, who is the investigating officer in this crime, is not conducting a proper investigation in the above said case and that certain omissions and mistakes have crept in Ext.P-2 and that this was purposefully done with a view to helping the accused persons. The petitioner alleges that the present investigation at the hands of the 1st respondent will spoil the case. The specific case of the defacto complainant as averred in paragraph 5 of the Writ Petition is that a close perusal of Ext.P-2 will reveal that the statement of the petitioner was recorded

in a callous manner by the 1st respondent and the 1st respondent has purposefully omitted a portion of the statement given by the petitioner to him. It is in the light of these aspects, that the petitioner has filed the above captioned Writ Petition (Civil) with the following prayers:

- “i) Issue a writ of mandamus or any other appropriate writ, order or direction, entrusting the investigation of Crime 96/2015 of Kazhakuttam Police Station with a competent officer of superior rank in the interest of justice.
- ii) For the purpose of a speedy and effective investigation this Hon'ble court may be pleased to direct R1 to hand over the investigation and entrust the investigation of Crime 96/2015 of Kazhakuttam Police station with the Crime Branch or any of other agency.”

2. As directed by this Court, the 1st respondent has filed a statement dated 4.6.2015 in this case and paragraphs 2 to 4 thereof read as follows:

- “2. It is respectfully submitted that prosecution case is that with the intention to outrage the modesty of complainant accused used abusive words to the lady complainant to outrage her modesty due to the previous enmity arox (sic) at the association meeting over a dispute between the complainant and accused. The accused joined together by using abuse words to the complainant when she was speaking against conducting the association election at the association meeting of Aswasthy Gardens, Menamkulam Village at 18.00 hrs. on 06.02.2015. After that the accused speaking badly and catching her mobile phone forcefully, deleting their speech recorded and throw it down to damage the phone which makes loss to the complainant and thereby accused made to outrage the modesty of the complainant and thereby committed the offence of the sections mentioned above.
- 3. It is submitted that on 07.02.2015 at 18.00 hrs. a Crime 96/2015 of Kazhakuttom Police Station registered against the

accused as per the statement of complainant. I registered the case and further investigation endorsed to GASI, J.Babu.

4. During the course of investigation by GASI Babu, it is clear that there is no such incident happened as per the statement of the complainant. He thoroughly investigated about the incident between the participants of the meeting. All of them stated that there is no such incident done at that time. Most of the participants of the meeting were retired Government servants and also aged above 60 with good reputation in the society.
5. Hence from the preliminary investigation, it is clear that the complainant's statement was false, no such provocation done from the accused against the complainant at the meeting, and her petition generated only from the enmity due to the inclusion of new members in the association committee which was not included in the association meeting agenda. S.Sreejth, Sub Inspector of police have completed the investigation after verifying the investigation of GASI Babu and the case was referred charged on 30.02.2015 by finding that the case was false and there is no need for further investigation."

3. Heard Sri.C.P.Udayabhanu, learned counsel for the petitioner and learned Public Prosecutor appearing for the respondents.

4. In view of the specific allegations made by the petitioner in paragraph 5 of the Writ Petition, it is ordered as follows:

The 2nd respondent Superintendent of Police shall call for the entire CD files in this crime from the 1st respondent immediately. The 2nd respondent will give notice to the petitioner to appear before him on a specified day and time in his office without any further delay. The petitioner shall comply with the said requirement in the said notice and will appear in person before the 2nd respondent Superintendent of Police and she may be accompanied by an Advocate of her choice on that occasion. Thereafter, the 2nd respondent will cause to record the statement of

the petitioner about the incidents. After this, the 2nd respondent will carefully scrutinise and examine the contents of the entire CD files in this case as well as the statement of the petitioner as ordered to be recorded now and will ascertain as to whether the investigation had proceeded on correct and proper lines and as to whether there had been any misdirection in the investigation and as to whether there has been any substantial divergence in the statement initially said to have been recorded by the 1st respondent Sub Inspector of Police from the petitioner as alleged in paragraph 5 of the Writ Petition. If the 2nd respondent is satisfied that, to ensure fairness, it is necessary to conduct any further investigation, he will take steps to ensure that such further investigation is ordered to be entrusted to an officer, who is sufficiently superior in rank to the 1st respondent. It is made clear that this Court has not expressed any opinion on the merits of the case and this direction is issued only to ensure that the investigation appears to be fair to all concerned so that the specific grievance of the petitioner that her statement recorded wrongly by the 1st respondent, is examined by the 2nd respondent.

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

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Sd/-
ALEXANDER THOMAS, JUDGE
///True copy///

P.S. to Judge