

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

WP(C).No. 12682 of 2015 (I)

PETITIONER(S):

1. MRS.ROSILY FIGAREZ AGED 74 YEARS
W/O.LATE MR.JOSEPH FIGAREZ, PATHISSERY HOUSE
ARIPALAM P.O, THRISSUR DISTRICT, KERALA STATE 680 688.

2. M.STANLEY FIGAREZ
S/O.LATE JOSEPH FIGAREZ, PATHISSERY HOUSE
ARIPALAM P.O, THRISSUR DISTRICT, KERALA STATE 680 688.

3. SYLVESTER FIGAREZ
S/O.LATE JOSEPH FIGAREZ, PATHISSERY HOUSE
ARIPALAM P.O, THRISSUR DISTRICT, KERALA STATE 680 688.

4. CLARENCE D'COUTH
S/O.LATE MR.SEBASTIAN D'COUTH
KARIYARAPARAMBIL HOUSE, ELANKUNNAPUZHA P.O
ERNAKULAM DISTRICT, KERALA STATE 682 503.

5. HERMY FIGAREZ
S/O.LATE JOSEPH FIGAREZ, PATHISSERY HOUSE
ARIPALAM P.O, THRISSUR DISTRICT, KERALA STATE 680 688.

BY ADVS.SRI.V.V.NANDAGOPAL NAMBIAR
SRI.V.RENJITH SHANKAR
SRI.SHIJU ABRAHAM VERGHIS

RESPONDENT(S):

1. THE STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
DEPARTMENT OF HOME AFFAIRS, GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE
STATE POLICE HEAD QUARTERS, VAZHUTHACAUD
THIRUVANANTHAPURAM.

3. THE COMMISSIONER OF POLICE
KOCHI CITY, ERNAKULAM

4. THE RURAL SUPERINTENDENT OF POLICE
ALUVA, ERNAKULAM.

5. THE CIRCLE INSPECTOR OF POLICE
VADAKKEKARA POLICE STATION, VADAKKEKARA, PAROOR
KERALA STATE.

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6. THE STATION HOUSE OFFICER
PUTHENVELIKKARA POLICE STATION, PAROOR, KERALA STATE.

BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 12682 of 2015 (I)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. COPY OF THE COVERS OF DEVOTIONAL MUSIC CDS RELEASED BY
FR.EDWIN FIGAREZ.

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

A.M.SHAFFIQUE & P.V.ASHA, JJ

W.P(C).No.12682 of 2015

Dated this the 28th April, 2015

JUDGMENT

Shaffique, J.

The petitioners have approached this Court alleging harassment by the Police. It is inter alia submitted that a crime is under investigation against Fr.Edwin Pigarez, son of the first petitioner as Crime No.135/2015 of Puthenvelikara Police Station. It is submitted that the family members of the petitioners are unnecessarily being threatened during the said investigation process, which amounts to clear harassment by the Police. According to the petitioners, statements have already been recorded and there is no reason to further call upon them to appear before the Police Station and under the guise of investigation they are being harassed.

2. A statement has been filed by the fifth respondent denying the allegations raised in the Writ Petition. It is stated that a crime has been registered against the son of

the first petitioner as accused under Section 376(2)(i) of Indian Penal Code and Sections 4 and 5(1) read with 6, 9 (1), 10, 11(ii)(iii) and 12 of the Protection of Children from Sexual Offences Act, 2012. The allegation is that a minor child was sexually assaulted and exploited on several times by the accused. The respondents also submitted that after registration of the crime, the accused has absconded and various steps were being taken by the Police to apprehend the accused. It is further stated that the fourth petitioner had helped and aided the accused to retrieve his belongings from the Church and quarters and thereafter to leave the country. The active aid and support given by the fourth petitioner is also being investigated and his inclusion as an accused in the above crime will be decided by the investigation team after collecting the entire evidence.

3. The statement filed by the fifth respondent indicates that the crime is pending investigation against the accused and the petitioners apparently are his near

relatives. The case came to be filed at the stage when the accused could not be apprehended and investigation was in progress.

4. Learned counsel for the petitioners would further submit that by interim order dated 24.4.2015 a learned Single Judge of this Court in B.A.No.2215 of 2015, while considering the anticipatory bail application, directed that the petitioners shall not be arrested by the Police till the next posting date, which is posted on 5.5.2015. Learned counsel for the petitioners further submitted that the accused had already appeared before the Investigating Officer.

5. Having regard to the above factual situation, we do not think that a case of police harassment has been made out in this Writ Petition. The crime is under investigation, which involves serious allegations and if the near relatives are questioned by the Police, it will not amount to harassment as such.

Under such circumstances and especially in view of the fact that the accused had already approached this Court for anticipatory bail, we do not think that this is a fit case to issue any directions as sought for. Accordingly, taking on record the statement filed by the fifth respondent, this Writ Petition is closed.

**A.M.SHAFIQUE
JUDGMENT**

P.V.ASHA, JUDGE

vgs28/4/15