

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 13024 of 2015 (C)

PETITIONER(S):

1. **SABU M.JOSEPH, AGED 47 YEARS,
S/O. JOSEPH, PRAMADIKUZHAYIL HOUSE, NOOROMAVU P.O.,
AANIKKAD, MALLAPPILLY, PATHANAMTHITTA-689 589.**
2. **BABY M.JOSEPH, AGED 49 YEARS,
S/O. JOSEPH, PRAMADIKUZHAYIL HOUSE, NOOROMAVU P.O.,
AANIKKAD, MALLAPPILLY, PATHANAMTHITTA-689 589.**

**BY ADVS.SRI.SHAIJAN C.GEORGE
SMT.S.REKHA KUMARI
SRI.M.T.AJITH
SMT.SAJITHA GEORGE**

RESPONDENT(S):

1. **DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695 001.**
2. **ADDL. DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695 001.**
3. **THE INSPECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM RANGE,
THIRUVANANTHAPURAM-695 001.**
4. **DISTRICT POLICE CHIEF,
PATHANAMTHITTA-691 523.**
5. **DEPUTY SUPERINTENDENT OF POLICE,
DCRB, PATHANAMTHITTA-691 523.**

*** ADDL.R6-R8 IMPEADED**

6. **SRI.R.CHANDRASEKHARAN PILLAI, DY.S.P., PATHANAMTHITTA
(AS ON 5/11/13) THROUGH DIRECTOR GENERAL OF POLICE, POLICE
HEADQUARTERS-695001, THIRUVANANTHAPURAM.**

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7. **MR.MADHU BABU, CIRCLE INSPECTOR OF POLICE,
CHITTAR (AS ON 5/11/13) THROUGH DIRECTOR GENERAL OF POLICE,
POLICE HEADQUARTERS, THIRUVANANTHAPURAM.**
8. **MR.THOMASKUTTY, ADDL.SUB INSPECTOR OF POLICE,
PATHANAMTHITTA POLICE STATION (AS ON 5/11/13)
THROUGH DIRECTOR GENERAL OF POLICE,
POLICE HEADQUARTERS, THIRUVANANTHAPURAM,
(AS ON 5/11/130-695001.**

**ADDLR6-R8 ARE IMPEADED AS PER ORDER DATED 28/4/2015 IN
IA 6960/2015.**

BY SRI.ABDUL RASHEED ADDL.DIRECTOR GENERAL OF PROCECUTIONS

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : A COPY OF THE CHARGE IN CRIME NO.1672/2013 OF PATHANAMTHITTA
POLICE STATION.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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W.P.(C) No. 13024 of 2015

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Dated this the 28th day of September, 2015

JUDGMENT

The brothers of deceased Biju, who was allegedly murdered by the accused in S.C.No.187/2015 of the Sessions Court, Pathanamthitta, have come up with a request for further investigation in the matter. Presently, final report has been filed in the matter alleging offences punishable under Sections 302, 201, 120(B), 109, 212 and 342 read with Section 34 IPC.

2. Initially, the investigation was not on the correct line and there was conscious attempt for the Investigating Officer, who had initially investigated the crime to safeguard the interest of the accused. The matter was noted down by the Government whereby the Home Department has issued order dated 13.01.2014, in which, it has been

clearly observed that 'this is a clear incident of manipulation and abuse of power by the Investigating Officer and the Supervisory Officer, in order to to save the real accused from criminal liability'.

3. An enquiry was ordered in the matter and the State Police Chief was directed to hand over the investigation to a competent officer. Consequently, the investigation was handed over to the Deputy Superintendent of Police (DCRB) and presently, the final report has been filed after investigation. Still, the petitioners maintain a case that there are manipulations in the investigation and some persons, who ought to have been arraigned as accused in the case have been omitted and they have been made witnesses in the case.

4. Initially, the case was committed by indicating the crime number mistakenly by the learned Magistrate and therefore, the same was returned for curing the defect. The defect was subsequently cured and the case has been

committed. Presently, the case is pending as S.C No.187/2015. For the time being, on a perusal of the final report and records in the matter, this Court does not find any irregularity and illegality in the investigation. In case, during trial, if the complicity of any other person over and above the accused comes to light, the petitioners can have recourse to the procedure under Section 319 Cr.P.C. Simply by pointing out that some persons have been omitted from the charges, the trial cannot be dragged on unnecessarily. Let the matter be tried at the earliest. In the course of the trial, if the complicity of any other person comes to light, the court below shall invoke the power under Section 319 Cr.P.C.

With the said observation, this Writ Petition is presently closed.

Sd/-
B.KEMAL PASHA, JUDGE

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