

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 13284 of 2015 (I)

PETITIONER:

**RATHEESH KUMAR.S.V, AGED 32 YEARS,
S/O SUKUMARAN NAIR, SANAL SADANAM,
KUTTIYANIKKADU, KEEZHAROOR PO,
TRIVANDRUM, PIN:695124.**

**BY ADVS.SMT.R.BINDU
SRI.K.PRIYAKUMAR
SRI.C.R.RENJITH**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, HOME DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM, PIN:695001.**
- 2. CIRCLE INSPECTOR OF POLICE,
VENJARAMOODU POLICE STATION,
THIRUVANANTHAPURAM, PIN:695001.**
- 3. SUB INSPECTOR OF POLICE,
VATTAPARA POLICE STATION,
THIRUVANANTHAPURAM, PIN:695028.**
- 4. SALAHUDEEN, S/O MOHAMMED KANNU, TCNO.3/695,
SHAMEENA MANZIL, PANGAPPARA, SREEKARYAM PO,
THIRUVANANTHAPURAM, PIN:695017.**
- 5. THRESSIA, W/O (LATE) ANIL KUMAR,
MUKKOLAKKAL VEEDU, KULAVUPARA,
PANNIYODU P.O., VEERANAKKAVU VILLAGE,
THIRUVANANTHAPURAM, PIN:695575.**
- 6. BABY, W/O (LATE) MANAS, MUKKOLAKKAL VEEDU,
KULAVUPARA, PANNIYODU P.O., VEERANAKKAVU VILLAGE,
THIRUVANANTHAPURAM, PIN:695575.**

R1 TO R3 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: COPY OF THE CLAIM APPLICATION I OP(MV)1072 OF 2012 BEFORE THE MACT, NEYYATTINKARA.
- EXHIBIT P2: COPY OF THE FINAL REPORT DATED 30.6.2012.
- EXHIBIT P3: COPY OF THE OBJECTION IN OP(MV)1072 OF 2012.
- EXHIBIT P4: COPY OF THE COMPLAINT TO THE DISTRICT POLICE CHIEF (RURAL) DATED 5.4.2013.
- EXHIBIT P5: COPY OF THE REPORT DATED 9.4.2013.
- EXHIBIT P6: COPY OF THE FINAL REPORT DATED 29.7.2013.
- EXHIBIT P7: COPY OF THE PASSPORT NO.H1323608 DATED 4.11.2008 OF THE PETITIONER.
- EXHIBIT P8: COPY OF THE DRIVING LICENSE NO.19/2819/2008 DATED 22.11.2011.
- EXHIBIT P9: COPY OF THE REGISTERED CERTIFICATE BOOK OF THE 4TH RESPONDENT PRODUCED AS JAPTHA NO.7 DATED 19.11.2012 BEFORE THE HON'BLE MACT, NEYYATTINKARA.
- EXHIBIT P10: COPY OF THE REGISTRATION DETAILS OF THE OFFENDED VEHICLE OBTAINED FROM THE INTERNET.

RESPONDENTS' EXHIBITS & ANNEXURES:

- ANNEXURE R2(A) : TRUE COPY OF THE STATEMENT GIVEN BY THE PETITIONER ON 12.4.213.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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W.P.(C).No. 13284 of 2015

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Dated this the 8th day of June, 2015

J U D G M E N T

The main prayers in this Writ Petition (Civil) are as follows:

- “1. To issue a Writ of Mandamus or any other writ, direction or order directing the Respondent No.1 to 3 to conduct proper investigation in Crime No. 335/12 of Vattappara Police Station.
2. To issue a Writ of Mandamus or any other writ, direction or order directing the Respondents to stop all further proceeding pursuant to Exhibit P6 charge sheet dated 29-07-2013.
3. Such other reliefs which are found to be necessary and deem fit in the interest of justice and incidental to this Writ Petition may also be granted.”

2. In pursuance of the directions issued by this Court to furnish instructions, the 2nd respondent has filed statement dated 19.5.2015 in this matter. Paragraphs 4 to 7 of the said statement read as follows:

“4. It is respectfully submitted that the petitioner has filed Ext.P4 complaint before the District Police Chief on 5.04.2013 and the same was registered as Petition No.657/Camp/Ptn dated 5.04.2013. In the said complaint it is alleged that he has no connection whatsoever with the vehicle involved in the accident. Pursuant thereof District Police Chief, Thiruvananthapuram (Rural), directed Mr.Velayudhan Nair, the then Circle Inspector of Police, Venjaramoodu to conduct a detailed investigation into the matter. Thereafter he submitted a report before the Hon'ble Judicial First Class Magistrate Court, Nedumangadu u/s. 173(8) CrPC seeking permission for further investigation. After obtaining necessary permission from the Hon'ble Court he conducted further investigation especially regarding the possession and ownership of the offending vehicle at the time of accident.

5. It is respectfully submitted that during further investigation the petitioner was questioned by the Inspector of Police

on 12.04.2013 and he had given statement that he purchased the pickup autorickshaw bearing Reg.No.KL 01 AH 6456 from one Mr.Salavudeen through his friend and vehicle broker Mr. Balachandran on 19.11.2009. Thereafter he sold the vehicle to one Mr. Biju on 16.06.2010 through the above named vehicle broker Mr.Balachandran and it was further stated that at the time of sale he had handed over the RC book and Insurance certificate to the purchaser and that he came to know that on 23.05.2012 the vehicle met with an accident and as a result one person died. In connection with the above accident when he was summoned the Vattappara Police Station it was admitted by him and had earlier given a statement to the Police. A true copy of the statement given by the petitioner on 12.04.2013 is produced herewith and marked as Annexure R2(a). Therefore he was arrayed as a prosecution witness to prove that he purchased the offending vehicle and later on sold the vehicle to Mr.Biju. The above named Biju, Salavudeen, Balachandran and Rajan were also questioned and they had also given statement supporting the version given by the petitioner herein. Mr. Salavudeen, Balachandran and Rajan were questioned on 29.04.2013 and their statements were recorded. From the statement of the witnesses it can be seen that the petitioner herein had purchased the vehicle from Salavudeen on 19.11.2009 and sold the same to Mr. Biju through the vehicle broker Mr.Balachandran on 16.06.2010. From the statement of Biju it is disclosed with and he sold the vehicle to Rajan and thereafter Rajan sold the vehicle to one Mr. Rahul Raj on 30.04.2012 and while he was in custody of the said vehicle as owner cum driver the accident occurred on 23.05.2012. In the light of the statement of witnesses including the petitioner, the allegation of the petitioner that he had neither purchased the vehicle bearing Reg.No. KKL.01 AH 6456 nor executed any sale agreement in favour of anybody cannot (sic) considered as genuine. The said contention is being raised by the petitioner apprehending that liability may be casted upon him in the claim case filed by the legal heirs of the deceased before the Motor Accident Claims Tribunal at Neyyattinkara. The Inspector of Police, Venjaramood after conducting a comprehensive investigation submitted the charge sheet before the Hon'ble Judicial First Class Magistrate Court, Nedumangadu on 29.07.2013. The allegation of the petitioner that the charge sheet has been submitted without any proper investigation is absolutely false and hence denied. The further allegation of the petitioner that during investigation the police did not to (sic) collect the original sale of letter is factually incorrect and hence denied.

6. It is respectfully submitted that the allegation of the petitioner, that without any proper enquiry respondents 1 to 3 are trying to implicate the petitioner in the crime in collusion with respondents 4 to 6 is false and hence denied. In fact the petitioner herein is neither an accused nor he was the registered owner at the time of accident. He was arrayed as a prosecution witnesses only to prove that he purchased the vehicle from the original registered

owner and later on sold the same to one Mr.Biju The further allegation of the petitioner that no proper investigation has been conducted on the basis of the Ext.P4 complaint is also false and hence denied.

7. It is respectfully submitted that the petitioner herein was cited as the CW9 to prove that he purchased the above vehicle bearing Reg.No.KL.01 AH 6458 from the RC owner one Mr.Salavudeen who is CW8, the investigation conducted by the Inspector of Police, Attingal has established that the RC owner of the above vehicle Mr.Salavudeen sold the vehicle to the petitioner on 19.11.2009. Thereafter the petitioner sold the same to Mr.Biju on 16.06.2010 who is CW10 and Mr.Biju sold the vehicle to one Mr.Rajan CW11 on 11.12.2010 and finally Mr.Rajan sold the vehicle to one Mr.Rahul Raj on 30.04.2012 who is the accused in the above crime. As stated above the original sale letters were seized and produced before the Hon'ble Court."

3. When the matter was taken up for consideration, Smt.R.Bindu, the learned counsel for the petitioner submitted that this Writ Petition may be closed recording the aforementioned averments and submissions in the statement dated 19.5.2015.

4. Even going through the projected version of the complainant, the alleged accident is said to have occurred on 23.5.2012, on which date, indisputably the petitioner had no connection with the vehicle in question, etc. Accordingly, this Writ Petition (Civil) stands finally disposed of, recording the above said submissions in the statement dated 19.5.2015 of the 2nd respondent and the aforementioned submissions of the petitioner.

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

P.S. to Judge

W.P.C.13284/15

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