

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No. 13970 of 2015 (U)

PETITIONER(S):

**GIROJ K.I AGED 30 YEARS
S/O.ITHAKU, KUNNEL HOUSE, PUTHUVASSERY
AMBALLOOR, MULANTHURUTHY, ERNAKULAM. PIN-682 315.**

**BY ADVS.SRI.K.R.VINOD
MS.JENCY SUSAN JOSE
SRI.V.SRI NATH**

RESPONDENT(S):

- 1. STATE OF KERALA
REP. BY THE SECRETARY, DEPARTMENT OF HOME AFFAIRS
THIRUVANANTHAPURAM. 695 001.**
- 2. THE SUB INSPECTOR OF POLICE
MULANTHURUTHY POLICE STATION, ERNAKULAM DISTRICT.**
- 3. THE DIRECTOR GENERAL OF POLICE
KERALA STATE, POLICE HEADQUARTERS
THIRUVANANTHAPURAM. 695 001.**
- 4. THE COMMISSIONER OF POLICE
KOCHI CITY, ERNAKULAM DISTRICT. 682 031.**
- 5. THE CIRCLE INSPECTOR OF POLICE
PIRAVOM, ERNAKULAM DISTRICT.**

BY PUBLIC PROSECUTOR PLEADER SMT.SAREENA GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 13970 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1- THE COPY OF THE FIRST INFORMATION REPORT NO.391/2015 OF
MULANTHURUTHY POLICE STATION.**

**P2- THE COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER ISSUED BY
MEDICAL TRUST HOSPITAL DATED 28.04.2015.**

**P3- THE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE
THE 3RD RESPONDENT DATED 30.04.2015.**

RESPONDENT(S)' EXHIBITS

NIL.

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P.S. to Judge

ALEXANDER THOMAS, J.

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W.P.(C).No. 13970 of 2015

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Dated this the 20th day of May, 2015

J U D G M E N T

The petitioner is the son of the defacto complainant/victim in Ext.P-1 Crime No.391/2015 of Mulanthuruthy Police Station, registered for offences involving Secs.323, 324 read with Sec.34 of the IPC. According to the petitioner, he has suffered serious head injuries as discernible from Ext.P-2 discharge summary and that the case and the materials on record certainly disclose serious offences under Secs.307, 326 read with Sec.120(B) of the IPC. It is alleged that the investigating officer (2nd respondent) has not properly and fairly carried out investigation and that for reasons known only to the investigating officer, lesser offences as those under Secs. 323, 326 read with Sec.34 IPC alone has been included in Ext.P-1 FIR. According to the petitioner, he has submitted Ext.P-3 representation on 30.4.2015 before the 3rd respondent-Director General of Police, requesting that the investigation of this case may be handed over to a senior Police officer not below the rank of

Dy.SP. so that the investigation is carried on fairly and properly and in accordance with law. It is in the light of these facts and circumstances that the petitioner has preferred the above captioned Writ Petition (Civil) with the following prayers:

“(a) Issue a writ of mandamus directing the 3rd respondent to remove the 2nd respondent from the investigation of the Exhibit P1 FIR No.391/2015 of Mulanthuruthy Police Station, Ernakulam and hand over the investigation of the said case to any senior police officer not below the rank of Deputy Superintendent of Police and further, direct the officer so appointed to incorporate the offences punishable U/s. 120(b), 307 and 326 of IPC against the accused persons after recording the statement of the petitioner in the aforesaid crime.

(b) To issue any other writ or direction appropriate in the circumstances of this case.”

2. Heard Sri.K.R.Vinod, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondents.

3. The learned Public Prosecutor, on instructions from the 5th respondent–Circle Inspector of Police, Piravom, Ernakulam district, has submitted that initially Crime No.391/2015 of Mulanthuruthy Police Station was registered for offences under Secs.323, 324 read with Sec.34 of the IPC and that the brief case is that A1 assaulted the petitioner herein, who is the son of the defacto complainant, and that the other accused assaulted the defacto complainant and his son (petitioner herein) at 2 p.m. on 25.4.2015 near the house of the complainant at Puthuvassery in

Amballoor village due to previous enmity. It is further pointed by the Prosecutor that at first the Grade Sub Inspector of Police concerned had conducted the investigation and he recorded the statement of the petitioner and that the investigation revealed that A-1 assaulted the petitioner with a rubble piece and caused fracture to his skull and A-2 and A-3 have assaulted the complainant and inflicted injuries to the head of the complainant on the above said day. Accordingly, offence under Sec.326 IPC was also added and investigation is now continued under Secs.323, 324, 326 & 34 of IPC and that only A-1 to A-3 committed the offences and that further, as per the directions issued by the 5th respondent-Circle Inspector of Police, Piravom, Ernakulam district, the investigation has been now taken over by the Principal Sub Inspector of Police, Mulanthuruthy Police Station, who is now conducting investigation and that the investigation is now being carried out in a proper and effective manner.

4. Having considered the submissions of the learned counsel for the petitioner and the learned Public Prosecutor, it is ordered in the interest of justice that if the petitioner has any further grievances about the conduct of the investigation, he may

submit a representation in that regard pointing out the deficiencies, if any, as alleged by him and his related grievances in that regard before the 4th respondent-Commissioner of Police, who will examine such complaints, if any, as may be pointed out by the petitioner, by getting the case diary of the crime examined by a senior Police officer of the area concerned and if the 4th respondent is convinced that further supervision of the investigation is required, he may order that a competent senior officer may supervise the conduct of the investigation.

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

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Sd/-
ALEXANDER THOMAS, JUDGE

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P.S. to Judge