

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 17604 of 2013 (A)

PETITIONER(S) :

ALPHONSA,
AGED 50 YEARS,
D/O.MARY VARUNNY, VADUKKOOT HOUSE,
P.O.PARVATHY,
THRISSUR DISTRICT, PIN - 680 509.

BY ADVS.SMT.K.NANDINI
SRI.BINU BOSE.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM - 695 001.
3. THE CITY POLICE COMMISSIONER,
THRISSUR - 680 509.
4. REVENUE DIVISIONAL OFFICER,
THRISSUR - 680 509.
5. M.K.RAMESH,
SUB INSPECTOR OF POLICE, PAVARATTY,
THRISSUR - 680 509.
6. PRIYA,
W.C.P.O., (WOMEN CIVIL POLICE OFFICER) BADGE NO.6310,
PAVARATTY POLICE STATION, PIN - 680 507.

7. PRASHANTH,
CPO (CIVIL POLICE OFFICER), BADGE NO.5865,
PAVARATTY POLICE STATION, PIN - 680 507.
8. JOSH Y MARY,
AGED 40 YEARS, KIDANGAN HOUSE,
P.O.PAVARATTY, PIN - 680 507.
9. VARGHESE CICILY,
AGED 48 YEARS, VADAKOOT HOUSE,
P.O.PAVARATTY, PIN - 680 507.

BY ADV. SMT.TULASI PANICKER
BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1. TRUE COPY OF THE FIR IN CRIME NO.598/13 REGISTERED AT THE 3RD RESPONDENT POLICE STATION DATED 10.05.2013.
- EXHIBIT P2. TRUE COPY OF THE REPRESENTATION FROM PETITIONER TO 1ST RESPONDENT DATED 16.05.2013.
- EXHIBIT P2 (A) . TRUE COPY OF REPRESENTATION DATED 20.05.2013 SENT BY PUCL FOR AND ON BEHALF OF PETITIONER.
- EXHIBIT P3. TRUE COPY OF THE ACCIDENT-CUM-WOUND CERTIFICATE DATED 21.05.2013.
- EXHIBIT P4. TRUE COPY OF THE REFERRAL LETTER DATED 28.05.2013 FROM THE GENDER-BASED VIOLENCE MANAGEMENT CENTRE, DISTRICT HOSPITAL, THRISSUR.
- EXHIBIT P5. TRUE COPY OF THE DISCHARGE CARD DATED 29.05.2013 ISSUED FROM THE DISTRICT HOSPITAL.
- EXHIBIT P6. TRUE COPY OF THE COMMUNICATION FROM PETITIONER'S MOTHER TO THE 1ST RESPONDENT DATED 21.05.2013.
- EXHIBIT P6 (A) . TRUE COPY OF THE RECEIPT ISSUED FROM THE COURIER SERVICE DATED 21.05.2013.
- EXHIBIT P7. TRUE COPY OF THE REPRESENTATION TO 2ND RESPONDENT FROM PETITIONER AND HER MOTHER DATED 27.05.2013.
- EXHIBIT P7 (A) . TRUE COPY OF THE RECEIPT ISSUED FROM THE 2ND RESPONDENT'S OFFICE DATED 29.05.2013.
- EXHIBIT P8. TRUE COPY OF THE PRELIMINARY ORDER PASSED BY THE 4TH RESPONDENT DATED 28.06.2013.
- EXHIBIT P9. TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FROM THE AMALA INSTITUTE OF MEDICAL SCIENCES DATED 20/07/2013.
- EXHIBIT P10. TRUE COPY OF DISCHARGE CERTIFICATE DATED 07/06/2013 FROM THE AMRITA INSTITUTE OF MEDICAL SCIENCES.
- EXHIBIT P11. TRUE COPY OF THE M.P. NO. 6744/13 PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD.

RESPONDENT(S) ' EXHIBITS :

EXHIBIT R8 (A) . TRUE COPY OF ORDER DATED 25/01/2010 COMMITTING THE PETITIONER TO CIVIL PRISON.

EXHIBIT R8 (B) . TRUE COPY OF THE FIR 1052/2012 DATED 26/11/2012 OF PAVARATTY POLICE STATION.

EXHIBIT R8 (C) . TRUE COPY OF FIS DATED 26/11/2012 OF 8TH RESPONDENT AND READABLE COPY.

EXHIBIT R8 (D) . TRUE COPY OF THE DISCHARGE SUMMARY DATED 27/11/2012 OF 8TH RESPONDENT.

EXHIBIT R8 (E) . TRUE COPY OF THE FIR 597/2013 DATED 10/05/2013 OF PAVARATTY POLICE STATION.

EXHIBIT R8 (F) . TRUE COPY OF THE FIS DATED 10/05/2013 OF 8TH RESPONDENT'S HUSBAND AND REDABLE COPY.

EXHIBIT R8 (G) . TRUE COPY OF THE DISCHARGE SUMMARY DATED 16/05/2013 OF JOSHY.

/TRUE COPY/

P.A.TO JUDGE

RVS.

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

W.P.C.No.17604 of 2013

Dated this the 6th day of January 2015

J U D G M E N T

Shaffique,J

This writ petition is filed seeking the following reliefs:

“i) to issue a writ of mandamus or other appropriate writ order or direction directing the respondents 1 and 2 to see that petitioner and family are no more harassed;

ii) to issue a writ of certiorari or other appropriate writ order or direction, quashing Exhibit P8 impugned order of 4th respondent;

iii) to issue a writ of mandamus or other appropriate writ order or direction directing the respondents 1 and 2 to take appropriate action against respondents 5 to 7 and other police officers who tortured and hand-cuffed the petitioner;

iv) direction directing the 1st respondent to pay sufficient monetary compensation to the petitioner for enduring utmost pain and indignity in public at the hands of respondents 5 to 7 and other 4 identifiable police officers attached to the 4th respondent Police Station;”

2. Petitioner alleges that she was unnecessarily harassed, hand-cuffed and physically assaulted by the police in respect of certain allegations raised against her. Further it is contended that she was asked not to report about the torture by the police.

3. During the pendency of this case, this Court directed the District Police Chief to conduct an enquiry into the matter. Report was filed before this Court on 05/08/2013 by the District Police Chief, Thrissur. In the report, it is stated that the petitioner was arrayed as accused in several crimes namely Crime Nos.1053/2012, 597/2013, 598,2013. The incident which is narrated by the petitioner is with reference to her arrest in Crime No.597/2013 of Pavaratty police station. It is reported that despite the fact that the petitioner has made such a statement, there is no evidence to substantiate the said factual incident. It is stated that enquiries were conducted in regard to the allegations and in the absence of any evidence regarding the same, it was

revealed that the petitioner was not subjected to any such harassment, as alleged. Further, it is stated that the petitioner was produced before the learned Magistrate in the usual course after medical examination at Community Health Centre, Mullassery and she never raised any complaint before the learned Magistrate as well. It is also stated that proceedings were initiated against her under Section 107 Cr.P.C and that she is a person causing breach of peace and disturbing the public tranquility.

4. Reply affidavit has been filed by the petitioner further indicating that a private complaint has already been filed by her as M.P.No.6744/2013 before the Judicial First Class Magistrate Court, Chavakkad wherein certain police officers are also arrayed as accused.

5. Having regard to the aforesaid factual situation especially after considering the report of the District Police Chief which indicates that the allegations raised by the petitioner are baseless, we do not think that this Court will

be justified in making an enquiry into the said factual disputes. Since the petitioner has already taken up the matter before the learned Magistrate, it is always open for her to prosecute the matter in accordance with the procedure prescribed.

In the result, we do not find any reason to pass any orders in the writ petition and hence the same is closed.

(sd/-)

**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

