

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 16370 of 2015 (U)

PETITIONER :

**VICTOR CLEATUS, AGED 52 YEARS,
S/O.PETER, VIJO VILASAM, KANJIRAKKOD,
KUNDARA P.O.,KOLLAM DISTRICT.
TODDY WORKER T.S.NO.39 (THEKEMURI),
EAST KALLADA, KOLLAM.**

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT(S):

- 1. DIRECTOR GENERAL OF POLICE,
POLIC HEAD QUARTERS, THIRUVANANTHAPURAM-695 001.**
- 2. DISTRICT POLICE CHIEF,
KOLLAM (RURAL), KOTTARAKKARA, KOLLAM -691 506.**
- 3. DEPUTY SUPERINTENDENT OF POLICE,
KOTTARAKKARA, KOLLAM DISTRICT-691 506.**
- 4. SUB INSPECTOR OF POLICE,
KUNDARA POLICE STATION, KOLLAM DISTRICT-691 001.**

R1 TO R4 BY PUBLIC PROSECUTOR SMT. S.HYMA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 16370 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE FIR IN CRIME NO.1371/2014 OF KUNDARA POLICE STATION.

EXHIBIT-P2: TRUE COPY OF THE COMPLAINT FILED BEFORE THE HOME MINISTER KERALA.

EXHIBIT-P3: TRUE COPY OF THE FIR IN CRIME NO.1542/2014 OF KUNDARA POLICE STATION.

EXHIBIT-P4: TRUE COPY OF THE INFORMATION RECEIVED FROM THE OFFICE OF MINISTER WITH RESPECT TO FORWARDING THE MATTER TO SUPERINTENDENT OF POLICE (RURAL), KOTTARAKKARA.

EXHIBIT-P5: TRUE COPY OF THE RECEIPT RECEIVED FROM SUPERINTENDENT OF POLICE (RURAL) KOTTARAKKARA STATING THAT THE COMPLAINT HAS FORWARDED TO THE DEPUTY SUPERINTENDENT OF POLICE KOTTARAKKARA.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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ALEXANDER THOMAS, J.

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W.P. (C) No.16370 of 2015

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Dated this the 15th day of May, 2015

J U D G M E N T

The prayers in this writ petition are as follows:

- i) Call for the records, relating to Ext.P1 to P5 and issue a writ or appropriate direction to the 1st and 2nd respondents immediately handover the investigation of the cases to an Officer in the rank of DYSP from outside the jurisdiction to conduct an impartial enquiry in the matter and take appropriate legal action, including the truth of registration of crime against the petitioner.
- ii) Issue a writ or appropriate direction to the 4th respondent not to file a final report in crime No.1542 of 2014 till a superior officer complete the enquiry and investigation in the entire incidents.
- iii) Pass any other order or direction as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.

2. Ext.P1 is the copy of the FIR in relation to Crime No.1371 of 2014 of the Kundara police station registered on 26.6.2014 for offences under Section 324, 427 and 34 of IPC in which the petitioner herein is the de-facto complainant and one Sri. Ramesh Kumar is the accused (who is the de facto complainant in Crime No.1542 of 2014 of Kundara Police station).

3. Ext.P3 is the copy of the FIR in Crime No.1542 of 2014 of Kundara Police Station registered on 19.7.2014 for offences under Section 283, 294(b) and 506(ii) the I.P.C. in which the petitioner herein is the accused and above said Sri. Ramesh Kumar is the de facto

complainant.

4. As directed by this Court, the fourth respondent Investigating Officer (Sub Inspector of Police, Kundara Police Station) has filed statement dated 10.6.2015 with regard to Ext. P3 crime No.1542 of 2014 in which the petitioner herein is the accused, it is stated in the paragraph 3 and 4 of the said statement which reads as follows:

From the investigation, it is revealed that on 19.07.2014 evening, Sri. Ramesh Kumar, a CPI(M) activist came to Kundara Police Station and raised the allegation narrated as in the FIR. Meanwhile, the Petitioner of this Writ petitioner also reached at the Police Station. When both were inside the Police Station, some CPI (M) activists gathered in front of the Police Station demanding legal action against the petitioner. Station House Officer, Kundara Police Station registered a Crime No.1542 of 2014 U/s 283, 294(b) and 506(ii) of the I.P.C based on the statement of Sri. Ramesh Kumar. He conducted the investigation of the case, recorded statements of two witnesses and prepared the scene mahazar. As per the Proceedings of respondent No.2, Sri. M. Anilkumar, Circle Inspector took up the investigation of the case and Sri. Umesh Kumar, formerly CI of Police continued the investigation. I took over the charge of Inspector of Police, Kundara on 04.06.2015 and took over the investigation.

Investigation so far conducted revealed that most of the allegations against the petitioner of this Writ Petition raised by the complainant of Crime No.1542/14 is not correct. On 19.07.2014, there was only a quarrel between the Petitioner and the complainant of Crime No.1542 of 2014 at Elamballoor, Kundara. Hence, a very detailed and impartial investigation is going on, in the alleged matter. The final report in this case will only be submitted after proper investigation and I humbly requested that a period of three months may be allowed to file the final report.

5. As regards Ext.P.1 Crime No.1371 of 2014 in which the above said Sri. Ramesh Kumar is the accused and the petitioner is the de facto complainant, it is stated in paragraph 5,6 of the such statement which reads as follows:

"Prior to the above incident, another case in Crime

No.1371/2014 U/s 324, 427 and 34 IPC was registered in Kundara Police Station based on the complaint of the Petitioner. The brief of the case is that on 25.06.2014 at 23.45 hours, three accused persons 1) RemeshKumar, S/o Purushothaman, Usha Mandiram, Perayam, Mulavana Village 2) Lal Kumar S/o Velayudhan Kunju, Thekkevila Veedu, Perayam, Mulavana Village and 3) an identifiable person had thrown stones on the house of the Petitioner, which was under construction, caused damages to the window glasses with loss of Rs.10,000/- and sustained injuries to the workmen.

Initially, this case was also investigated by Sri. B. Ayoobkhan, then Station House Officer, Kundara. He recorded the statements of witnesses and from the investigation, 324 IPC was deleted as none of the workmen sustained injury. The petitioner has produced a CD containing visuals of CCTV installed in front of the house."

Further it is stated in paragraph 7 8 and 9 in the said statement as follows.

"Meanwhile, respondent No.2, District Police Chief, Kollam Rural issued a Proceedings vide No.174/CAMP/014/QR dated 23.07.2014 and entrusted the investigation of Crime No.1371/2014 with Inspector of Police, Kundara. Sri. Anilkumar, then Inspector of Police, Kundara took over the investigation of the case from Station House Officer. There is no direct eye witness in this case. On his investigation, it is revealed that the CCTV visuals are not enough to identify the accused persons and decided for a detailed investigation".

It is clearly stated in paragraph 4 of the statement of the Investigating Officer that most of the allegations against the petitioner in respect of Crime No.1542 of 2014 in which the petitioner is the accused, are not correct etc. Therefore reading of the statement shows that the police has acted fairly and properly in the investigation of both the cases and it has been stated that final report should be submitted within a short span of time in these cases. In paragraph 8 of the such statement, it is stated that the investigator has already seized the C.C T.V visual materials by Mahazar and photographs of the suspected persons

are also been collected and that the same has to be sent to FSL examination, in relation to Ext.P.1 Crime No.1371/14 in which the petitioner is the de facto complainant. The police has also merely stated that the investigation so far conducted has revealed that most of the allegations raised against the petitioner in respect of Ext.P. 3 Crime No.1542 of 2014 are not correct etc. Therefore, this Court is of the considered opinion that no further directions are necessary at this stage except to direct the second respondent District Police Chief, Kollam Rural to ensure that the third respondent Deputy Superintendent of police will directly supervise and monitor the investigation in both the cases so that an effective investigation is carried out. Time bound steps should be taken by the investigating agency to ensure that the materials are send for FSL examination and to ensure that the results thereof are also obtained without any further delay. The petitioner has any further grievances, it is for him to point out the exact details in that regard before the second and third respondents, they will examine such representation and take appropriate action as may be warranted in the facts and circumstances so disclosed with them.

With these observations and directions the W.P(C) stands disposed of.

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ALEXANDER THOMAS, JUDGE

