IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WP(C).No. 16466 of 2015 (G)

PETITIONER(S):

P.J.JOSE,
S/O. JOSEPH, PERINKILAMKATTIL HOUSE, ANGAMALLY P.O.,
PINCODE-683 572, ERNAKULAM DISTRICT, KERALA STATE.

BY ADVS.SRI.YASH THOMAS MANNULLY
SRI.G.SANTHOSH KUMAR (P).
SMT.NISHY THOMAS MANNULLY

RESPONDENT(S):
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1. **STATE OF KERALA,**
   REPRESENTED BY THE HOME SECRETARY, HOME DEPARTMENT,
   KERALA GOVERNMENT, THRIUVANANTHAPURAM - 695 001.

2. **THE SUB INSPECTOR OF POLICE,**
   ANGAMALY POLICE STATION, ANGAMALY

3. **HEAD OF SPECIAL CRIME BRANCH UNIT,**
   CENTRAL BUREAU OF INVESTIGATION, MALABAR HOUSE,
   KESTON ROAD, VELLAYAMBALAM, THIRUVANATHAPURAM - 695 001.

4. **BANK OF BARODA,**
   ERNAKULAM NORTH BRANCH,
   ERNAKULAM - 682018, REPRESENTED BY THE CHIEF MANAGER.

5. **TOMY JOSEPH @ K.J. JOSEPH @ K.J. JOSEPH,**
   S/O. JOSEPH P.H., AGED 50 YEARS, KIZHEKUDAN HOUSE,
   BANK OF INDIA COLONY, HOUSE NO.28, ASOKA ROAD,
   KALOOR P.O., COCHIN 682 017.

6. **TICHU TOMY, S/O. TOMY JOSEPH,**
   AGED 25 YEARS, PROPRIETOR,
   V INTERNATIONAL IMPORT AND EXPORT HOLY TUESDAY SHOPPING MALL,
   NEAR ST. ANTONY'S CHURCH, KALOOR P.O., COCHIN - 682 017.

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7. BABURAJ PROPRIETOR, AGED 45 YEARS,
ALUVA FINANCIAL SERVICES BANK LOAN ARRANGEMENT,
REG NO.OC 35/136, TOW STAR BUILDING FBOA ROAD,
NEAR PRIVATE BUS STAND, ALUVA-01.

8. S.SANJEEV, AGED 50 YEARS,
CHIEF MANAGER AND AUTHORISED OFFICER BANK OF BARODA,
ERNAKULAM NORTH BRANCH, ERNAKULAM.

9. THE REGIONAL MANAGER,
BANK OF BARODA, REGIONAL OFFICE, VASUDEVA BUILDING,
T.D. ROAD, ERNAKULAM - 682011.

10. THE CHAIRMAN AND MANAGING DIRECTOR,
BANK OF BARODA, SURAJ PLAZA-1,
SAYAJI GANJ BARODA - 400 051, GUJARAT STATE.

11. THE CHIEF VIGILANCE OFFICER,
BANK OF BARODA, BARODA CORPORATE CENTRE, PLOT NO.C-26,
G-BLOCK, BANDRA KURLA COMPLEX, BANDRA EAST,
MUMBAI - 400 051.

12. THE DIRECTOR,
SERIOUS FRAUD INVESTIGATION OFFICE (SFIO),
MINISTRY OF COMPANY AFFAIRS, GOVERNMENT OF INDIA,
LODHI ROAD, NEW DELHI - 110 003.

R1 & R2 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
GOVERNMENT PLEADER SRI.GITHESH R.
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R3 BY SRI.P.CHANDRASEKHARA PILLAI, C.B.I.
R12 BY ADV. SRI.HARIDAS P.NAIR, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 16466 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE FIR NO. 628 OF 2015 OF ANGAMALY POLICE STATION.

EXHIBIT P2: TRUE COPY OF MP NO.370 OF 2015 BEFORE JFCM COURT, ANGAMALY.

EXHIBIT P3: TRUE COPY OF THE RELEVANT PAGES OF VALUATION REPORT DATED 6.2.2013.

EXHIBIT P4: TRUE COPY OF THE COMPLAINT DATED 10.10.2014 GIVEN TO RESPONDENT NO.11.

EXHIBIT P5: TRUE COPY OF THE ACKNOWLEDGMENT CARD FOR COMPLAINT DATED 10.10.2014 GIVEN TO RESPONDENT NO.11.

EXHIBIT P6: TRUE COPY OF THE COMPLAINT DATED 9.2.2015 GIVEN BY THE PETITIONER.

EXHIBIT P7:TRUE COPY OF THE GUARANTEE DATED 27.2.2013 BEFORE RESPONDENT NO. 4.

EXHIBIT P8:TRUE COPY OF THE PLAINT IN OS 55/15 BEFORE FIRST ADDITIONAL MUNSIFF COURT, ERNAKULAM.

EXHIBIT P9: TRUE COPY OF THE POSSESSION NOTICE DATED 9.3.2015 PUBLISHED BY CANARA BANK, KALOOR BRANCH.

EXHIBIT P10: TRUE COPY OF THE JUDGMENT IN WPC NO.9474 OF 2015 DATED 6.4.2015.

EXHIBIT P11:TRUE COPY OF THE JUDGMENT IN WPC NO.7835 OF 2015 DATED 6.4.2015.

EXHIBIT P12: TRUE COPY OF THE JUDGMENT IN BA NO. 2055 OF 2014 DATED 19.6.2015.

EXHIBIT P13:TRUE COPY OF THE DOCUMENT NUMBERED 5657 OF 2007 OF SRO, ALANGAD.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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W.P.(C).No. 16466 OF 2015

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Dated this the 7th day of July, 2015

J U D G M E N T

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

> "(i) issue a writ of Mandamus or any other appropriate Writ, Order or direction commanding Respondents No.1 and No.2 to hand over the investigation in Crime No.628 of 2015 of Angamaly Police Station to the third respondent.
>
> (ii) issue a writ of Mandamus or any other appropriate Writ, Order or direction commanding Respondents No.4, 9 and 10 to report the matter as per Exhibit P1, P5 and P6 to respondent No.12."

2. The learned State Attorney has now filed a statement dated 29.6.2015 on behalf of the 2nd respondent investigating officer of the State Police authority.

3. Sri.P.Chandrasekharan Pillai, learned Standing Counsel appearing for the CBI submits that, as per clause 6.2 of the Reserve Bank of India's Circular No.RBI/2010-11/104 dated 1.7.2010, it is stipulated that public sector banks should report fraud cases involving amount of Rs.1 crore and above, to the Central Bureau of Investigation and those below Rs.1 crore to the local police as detailed out in the said circular, which reads as follows:

> "6.2. Public sector banks should report fraud cases involving amount of Rs.1 crore and above to CBI and those below Rs. 1 crore to local police, as detailed below.

<u>Cases to be referred to CBI</u>.

(a) Cases of Rs. 1.00 crore and above upto Rs. 5.00 crore.

. Where staff involvement is prima facie evident - CBI (Anti Corruption Branch)

. Where staff involvement is prima facie not evident - CBI (Economic Offences Wing).

(b) All cases involving more than Rs. 5.00 crore - Banking Security and Fraud Cell of the respective centres, which is specialised cell of the Economic Offences Wing of the CBI for major bank fraud cases.

<u>Cases to be referred to Local Police</u>.

Cases below Rs. 1 crore - Local Police.

i) Cases of financial frauds of the value of Rs. 1.00 lakh and above, which involve outsiders (private parties) and bank staff, should be reported by the Regional Head of the bank concerned to a senior officer of the State CID/Economic Offences Wing of the State concerned.

ii) For cases of financial frauds below the value of Rs. 1.00 lakh but above Rs. 10,000/- the cases should be reported to the local police station by the bank branch concerned.

iii) All fraud cases of value below Rs. 10,000 involving bank officials, should be referred to the Regional Head of the bank, who would scrutinize each case and direct the bank branch concerned on whether it should be reported to the local police station for further legal action."

4. Accordingly, it is submitted by the learned Standing Counsel for the CBI that as the allegation of fraud in this particular case exceeds Rs.1 crore and that is pertaining to a nationalised bank like the respondent Bank of Baroda, the matter is to be investigated by the Central Bureau of Investigation and that subject to the directions that may be issued by this Court in this Writ Petition, the CBI is willing to undertake the investigation. The

learned State Attorney appearing for the State Police authorities has no objection in this course of action. The learned counsel for the petitioner also submits that in view of this submission made on behalf of the respondent CBI, the main grievance of the petitioner also stands redressed. Accordingly, it is ordered in the interest of justice that the investigation in respect of Crime No.628/2015 of Angamaly Police Station shall stand entrusted to the respondent Central Bureau of Investigation forthwith. The respondent CBI will take all earnest efforts in the matter to ensure that the investigation is commenced and concluded without much further delay. It is further ordered in the interest of justice that the authorities of the respondent State of Kerala shall ensure that sufficient infrastructural facilities are extended to the Central Bureau of Investigation for undertaking the investigation in the aforestated crime.

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

Sd/-
ALEXANDER THOMAS, JUDGE

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///True copy///

P.S. to Judge