

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN  
&  
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

**WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937**

**WP(C).No. 17366 of 2015 (S)**  
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**PETITIONER(S):**  
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- 1. V.S SUNILKUMAR AGED 47 YEARS  
S/O.SUBRAMANIAN, VELICHAPAD HOUSE, ANTHIKKAD P.O.  
THRISSUR.**
  - 2. P.K.RAJU AGED 50 YEARS  
S/O.PAZHANIYAPPAN, TC 1/1536(A), LENIN BHAVAN  
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.**
- BY ADVS.SRI.RENJITH THAMPAN (SR.)  
SRI.C.P.PRADEEP**

**RESPONDENT(S):**  
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- 1. STATE OF KERALA  
REPRESENTED BY ITS SECRETARY  
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT  
THIRUVANANTHAPURAM, PIN 695001.**
  - 2. DIRECTOR  
VIGILANCE AND ANTI CORRUPTION BUREAU  
THIRUVANANTHAPURAM, PIN 695033.**
  - 3. THE SUPERINTENDENT OF POLICE  
VIGILANCE AND ANTI CORRUPTION BUREAU  
THIRUVANANTHAPURAM UNIT, THIRUVANANTHAPURAM  
PIN 695001.**
  - 4. SHRI.K.M.MANI  
HON'BLE MINISTER FOR LAW AND FINANCE, SECRETARIAT  
THIRUVANANTHAPURAM, PIN 695001.**
- BY SPL.GOVERNMENT PLEADER SRI.SRIJITH MATHEW JOSE  
BY ADVOCATE GENERAL SRI.K.P.DANDAPANI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-06-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(C).No. 17366 of 2015 (S)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXHIBIT-P1: TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN TIMES OF INDIA ON 21.05.2015.**

**EXHIBIT-P2: TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN KAUMUDI ONLINE DATED 27.05.2015.**

**EXHIBIT-P3: TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED ON 30TH MAY 2015 IN TIMES OF INDIA.**

**EXHIBIT-P4: TRUE COPY OF THE REPORT PUBLISHED IN ECONOMIC TIMES ON 1.11.2014.**

**EXHIBIT-P5: TRUE COPY OF THE NEWSPAPER REPORT IN INDIAN EXPRESS DAILY DATED 09.11.2014.**

**EXHIBIT-P6: TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED ON 07.06.2015 IN THE DECCAN CHRONICLE.**

**EXHIBIT-P7: TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN MATHRUBHUMI.COM ON 21.01.2015.**

**EXHIBIT-P8: TRUE COPY OF NEWSPAPER REPORT PUBLISHED IN INDIAN EXPRESS ON 05.06.2015.**

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

**//TRUE COPY//**

**PS TO JUDGE**

**ASHOK BHUSHAN, CJ**

**&**

**A.M. SHAFFIQUE, J.**

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W.P (C) No. 17366 of 2015

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Dated this, the 10<sup>th</sup> day of June, 2015

## **J U D G M E N T**

### **Shaffique, J**

This writ petition is filed seeking the following relief;

*“(i) issue a writ in the nature of mandamus commanding the 3<sup>rd</sup> respondent to arrive at an independent opinion as regards the evidence collected in Cr.No.6/2014 of the Vigilance and Anti Corruption Bureau, Thiruvananthapuram and without any outside influence take a decision whether to put the accused on trial in the aforesaid crime within such time as may be fixed by this Hon’ble Court.”*

2. 1<sup>st</sup> petitioner being a member of the legislative assembly has approached this Court *inter alia* contending that when crime is being investigated by the 3<sup>rd</sup> respondent as Crime No.6/14 of the Vigilance and Anti Corruption Bureau, Thiruvananthapuram, investigating officer had made a statement before the Vigilance Court that the investigation of the case is

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over and that he has submitted the report along with the records to the Public Prosecutor/legal advisor. It is also stated that he had no information thereafter and it is for the Director of Vigilance in consultation with the Public Prosecutor/legal advisor to take a decision regarding the filing of the final report in the matter. This, according to the petitioner, is interference in the investigation process and therefore, he has sought for the relief as claimed.

3. Learned counsel also places reliance on the judgments of the Supreme Court in **Sarala v. Velu** {2000 (4) SCC 459} and **M.C.Mehta v. Union of India and others** [2007 (1) SCC 110] to contend for the proposition laid down in the judgments with reference to the role of the investigating officer. It is a settled position of law that the investigating officer has to form his own opinion regarding the investigation and submission of the final report. There cannot be any dispute about the said fact. As far as the averments made in the writ petition is concerned, it is based on news paper reports which cannot be taken at its face value. Further, an affidavit has been filed which also indicates that the information of the 1<sup>st</sup> petitioner is based on hearsay material. Fact remains that final report has not been filed before

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the Vigilance Court and until a final report is filed, it may not be possible for this Court to infer the correctness of the allegations made in the above writ petition.

4. Learned Advocate General appearing for the State submitted that the writ petition is premature, as the final report is awaited.

5. Having regard to the aforesaid factual situation, we are of the view that the writ petition is premature and is liable to be dismissed. However, as requested by the learned senior counsel appearing for the petitioners, we leave open the contentions urged to be agitated at the appropriate stage.

Writ petition is dismissed.

Sd/-

**ASHOK BHUSHAN, CHIEF JUSTICE**

Sd/-

**A.M. SHAFFIQUE, JUDGE**

Rp

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PS to Judge