

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 17726 of 2014 (M)

PETITIONER(S):

- 1. BEENAKUMARI, AGED 35 YEARS,
W/O.SREENIVASAN, RAHUL BHAVAN, KOTTEKONAM,
KATTADI (P.O), POOYAPPALLY, KOLLAM.**
- 2. SREENIVASAN, AGED 41 YEARS,
RAHUL BHAVAN, KOTTEKONAM, KATTADI (P.O.),
POOYAPPALLY, KOLLAM.**

**BY ADVS.SRI.V.RENJITH KUMAR
SRI.B.DIPU SACH DEEV**

RESPONDENT(S):

- 1. STATE POLICE CHIEF,
KERALA STATE, TRIVANDRUM - 695 001.**
- 2. STATE NODAL OFFICER
(ADDITIONAL DIRECTOR GENERAL OF POLICE),
NIRBHAYA WOMEN'S CELL, POLICE HEAD QUARTERS,
TRIVANDRUM - 695 001.**
- 3. SUPERINTENDENT OF POLICE,
STATE WOMEN'S CELL, THIRUVANANTHAPURAM - 695 001.**
- 4. DISTRICT SUPERINTENDENT OF POLICE (RURAL),
KOTTARAKKARA - 691 506.**
- 5. CIRCLE INSPECTOR OF POLICE,
EZHUKON CIRCLE, KOTTARAKKARA, KOLLAM. 691 506.**
- 6. SUB INSPECTOR OF POLICE,
POOYAPPALLY POLICE STATION, KOTTARAKKARA,
KOLLAM - 691 506.**

**R1 - R6 BY GOVERNMENT PLEADER SRI.JIBU P. THOMAS
R7 - R9 BY ADVS. SRI.K.SIJU
SMT.BINDU GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1- THE TRUE COPY OF THE ACCIDENT REGISTER CUM WOUND CERTIFICATE
DATED 25.03.2014.

EXT. P2- THE TRUE COPY OF THE OUTPATIENT RECORD DATED 27.03.2014.

EXT. P3- THE TRUE COPY OF THE OUTPATIENT RECORD DATED 28.03.2014.

EXT. P4- THE TRUE COPY OF THE DISCHARGE CERTIFICATE ISSUED ON 31.03.2014.

EXT. P5- THE TRUE COPY OF F.I.R IN CRIME NO.379 OF 2014 DATED 29.03.2014.

EXT. P6- THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
1ST RESPONDENT DATED 27.05.2014.

EXT. P7- THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
2ND RESPONDENT DATED 27.05.2014.

EXT. P8- THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
3RD RESPONDENT DATED 27.05.2014.

EXT. P9- THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
4TH RESPONDENT DATED 27.05.2014.

EXT. P10- THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
5TH RESPONDENT DATED 27.05.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
W.P.(C) No.17726 of 2014
.....

Dated this the 30th day of March, 2015

J U D G M E N T

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The de facto complainant as the 1st petitioner and her husband as the 2nd petitioner have approached this Court under Section 226 of the Constitution seeking appropriate writ or direction commanding respondents 1 to 4 to handover the investigation of Crime No.379/2014 of Pooyappally Police Station of Kottarakkara Taluk at Kollam District, to a Special Investigation Team headed by a Woman Police Officer for a fair and effective investigation in the matter.

2. It seems that the crime was originally registered for the offences punishable under Sections 323, 324 and 354 read with Section 34 IPC. The First Information Statement appended with the final report clearly show that there was a specific allegation by the de facto complainant that her maxi was torn away by the 2nd accused. In spite of

that, the person, who had registered the FIR, had not cared to incorporate the offence under Section 354B IPC as an offence in the matter. The investigation was proceeded with. It seems that the investigating officer knew that the matter is pending before this Court. Even then, it seems that a so-called investigation was conducted without making any genuine effort to investigate the matter and final report has been filed in the matter in a hurry. Presently, the investigating officer has thought it fit to delete the offence under Section 354 IPC in the matter and he has incorporated an offence under Section 294(b) IPC instead of Section 354 IPC in the matter. It seems that the statements appended with the final report clearly reveal that the maxi of the de facto complainant woman was torn away by the 2nd accused, thereby her modesty was severely outraged. It seems that the investigation was conducted in a headless manner and, in fact, no investigation was conducted. This is a clear abuse of the process of law. Much discussion is not

required to conclude that the so-called final report filed by the investigating officer in the matter has to be quashed.

In the result, the final report filed by the investigating officer in the matter is quashed and the investigation is kept open. The concerned Circle Inspector of Police, Ezhukone shall continue with the investigation of this case and file final report in the matter, after conducting a full fledged investigation in the matter. The Sub Inspector of Police, Pooyappally shall show cause as to why action should not be taken against him in the matter and his explanation shall reach this Court within one month from today. The Circle Inspector of Police, Ezhukone shall continue with the investigation under the supervision of the Superintendent of Police, Rural, Kottarakkara.

Writ petition is disposed of as above.

Post after one month for the report.

Sd/-
(B.KEMAL PASHA, JUDGE)