

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 17578 of 2015 (V)

PETITIONER :

**VISWANATHAN, AGED 48 YEARS, S/O.KUNJILA,
THIRUVONAM, VEDARAPLAVU, THAMARAKULAM,
ALAPPUZHA.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENT(S):

- 1. DISTRICT POLICE CHIEF,
S.P OFFICE, ALAPPUZHA.**
- 2. ADDL. SUB INSPECTOR OF POLICE,
NOORNADU POLICE STATION, NOORNADU.**
- 3. CIRCLE INSPECTOR OF POLICE,
CIRCLE OFFICE, MAVELIKKARA.**
- 4. DEPUTY SUPERINTENDENT OF POLICE,
CBCID, ALAPPUZHA.**
- 5. PADMAKUMARI,AGED 47 YEARS,
W/O.LATE VIJAYAN, MALARIMEL CHITHIRA,
VEDARAPLAVU, THAMARAKULAM.**

**R1 TO R4 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
BY PUBLIC PROSECUTOR SRI.GITHESH.R**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 17578 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - COPY OF THE PRIVATE COMPLAINT**
- P2 - COPY OF THE FIR NO.572/2012**
- P3 - COPY OF THE FINAL REPORT IN 572/12**
- P4 - COPY OF THE PRIVATE COMPLAINT FILED BY THE PETITIONER'S WIFE**
- P5 - COPY OF THE COMPLAINT BEFORE THE HOME MINISTER.**

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

/TRUE COPY/

P.S.TO JUDGE

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ALEXANDER THOMAS, J.

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W.P.(C).No. 17578 of 2015

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Dated this the 8th day of July, 2015

J U D G M E N T

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

- i. To issue a writ of mandamus or any other appropriate writ order or direction directing the first respondent to handover the investigation to the 4th respondent.
- ii. Such other appropriate order that the honourable court deem fit and proper in the facts and circumstances of the case.”

2. As directed by this Court, the 3rd respondent has filed a statement dated 27.6.2015 before this Court in this cae. Paragraph 8 of the said statement reads as follows:

“8. It is respectfully submitted that the Investigating Officer who has conducted an investigation earlier is no more in service and now the further investigation is being conducted by Mr.S.Dwijesh, S.H.O., Nooranadu and the Inspector of Police has given specific direction to the Investigating Officer to conduct the investigation and to file a final report within a period of one month from the date of getting permission from the Hon'ble Court.”

3. Heard Sri.R.Sunilkumar, learned counsel for the petitioner and learned Public Prosecutor appearing for the official respondents.

4. The case of the petitioner is that the son of the defacto complainant herein and another person, who are neighbours of the petitioner, had attempted to commit rape on the petitioner's wife on

18.5.2012 and the petitioner's wife on the same day itself had filed complaint before the Police Station concerned and she was directed to be present in the Police Station on 20.5.2012. That since no proper action was taken by the Police, the petitioner's wife was constrained to submit Ext.P-4 private criminal complaint before the jurisdictional Magistrate's court concerned on 25.5.2012.

5. That in retaliation to this, the lady defacto complainant, R-5 herein, had submitted a private complaint on 20.5.2012 at 8 p.m. alleging that the petitioner had trespassed into her house and outraged her modesty and torn off her dress, etc. as per Ext.P-1 complaint given on 26.5.2012, which led to the registration of the impugned Ext.P-2 Crime No. 572/2012 of Nooranad Police Station. The other crime concerned, in which the petitioner's wife is a defacto complainant is Crime No.571/2012 of Nooranadu Police Station, in which the present defacto complainant's son and another person are accused. Going by the nature of the sensitive allegations and counter allegations raised between these rival parties, the decision taken by the Police authorities concerned now to order further investigation of both these crimes, viz., Crime Nos. 571/2012 and 572/2012 of Nooranadu Police Station, is just, fair

and proper. But it is to be noted that now the further investigation in both these crimes is entrusted to an officer of the rank of Station House Officer (Sub Inspector of Police, Nooranadu).

6. This Court is of the considered opinion that in order to ensure that there is fair and effective investigation in respect of both these crimes, the further investigation should be entrusted to an officer not below the rank of Inspector of Police. Accordingly, it is ordered that the 1st respondent District Police Chief, Alappuzha, will pass necessary orders to ensure that the further investigation in respect of these two these crimes shall be entrusted to the Inspector of Police, Mavelikkara and such further investigation shall be closely and directly monitored and supervised by an officer of the rank of Deputy Superintendent of Police. The District Police Chief will also make timely review of the further investigation to ensure that the further investigation is being carried out in the right and proper direction and ensure that it is conducted fairly and properly.

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

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

