

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 17669 of 2015 (G)

PETITIONER(S) :

1. **SHOBANAKUMAR**
S/O.KUTTANPILLA, AGED 49 YEARS
SREEKALA BHAVAN, PAZHAKKUTTI
NEUMANGAD, THIRUVANANTHAPURAM.
2. **MOHANDAS G.,**
S/O.GANGADHARA PANIKKAR, RANI BHAVAN, KASTEN ROAD
KAWDIAR P.O., THIRUVANANTHAPURAM.

BY ADVS.SRI.BENNY ANTONY PAREL
SRI.K.ANAND

RESPONDENTS/STATE & ACCUSED :

1. **STATE OF KERALA**
REPRESENTED BY SECRETARY, HOME DEPARTMENT
TRIVANDRAM-695 001.
2. **THE STATION HOUSE OFFICER**
THAMPANOOR POLICE STATION
THIRUVANANTHAPURAM-695 001.

R1 & R2 BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

WP(C).No. 17669 of 2015 (G)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1. TRUE COPY OF THE COMPLAINT FILED BY THE 1ST PETITIONER
BEFORE THE JFCM-III, THIRUVANANTHAPURAM.

EXT. P2. TRUE COPY OF THE FIR NO.500/2014 DATED 21/3/2014 OF
THAMPANOOR POLICE STATION, THIRUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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K.RAMAKRISHNAN, J.

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W.P.(C). No.17669 OF 2015

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Dated this the 10th day of September, 2015

JUDGMENT

This is an application filed by the petitioners seeking interference of this court for issuing direction to the 2nd respondent to conduct proper investigation and submit final report in Crime No.500/2014 of Thampanoor Police Station, Thiruvananthapuram District under Section 482 of Code of Criminal Procedure.

2. It is alleged in the petition that the 2nd petitioner, who is the owner of the property had leased out a property to the accused in this case for running a business of Textile Market as a tenant of the 2nd petitioner by name and style “Lulu Textile Market” in building No.TC 25/2361, 62 in Survey No.1297/1 of Vanchiyoor Village and the 1st petitioner is the person who is managing the properties of the 2nd petitioner. When it was brought to the notice of the 1st petitioner that the tenant who is the accused in the case has fabricated certain documents forging his signature and

also created certain rent receipts forging the signature of the 1st petitioner, and produced in OS No. 1728/2003 on the file of the Munsiff Court, Thiruvananthapuram, he filed a private complaint before the Judicial First Class Magistrate Court-III Thiruvananthapuram and it was forwarded to the police for investigation under Section 156(3) of Code of Criminal Procedure. On receipt of the same, Thampanoor Police had registered Ext.P2 First Information Report as Crime No.500/2014 against one Baiju alleging offences under Sections 467, 469 and 420 of Indian Penal Code. The 2nd respondent, though registered the crime, has not taken any steps to complete the investigation and file final report, though the crime was registered in the year 2014. The 2nd petitioner is also aggrieved as he is supporting the case of the 1st petitioner. So the petitioner has no other remedy except to approach this court seeking the following relief:

“To direct the 2nd respondent to complete the investigation and file final report pursuant to Exhibit P2 FIR at the earliest and without any further delay pending disposal of the writ petition”.

3. The 2nd respondent filed a statement stating that

the investigation is being conducted by them and the petitioner has not taken any steps to get the documents from the court and produce before the investigating officer for enabling him to send the same for expert opinion and that was the reason for delay in completing the investigation.

4. Heard the counsel for the petitioner Sri, K. Anand and Government Pleader Sri. Jibu P. Joseph.

5. The counsel for the petitioner submitted that though the petitioner had mentioned the availability of the document with the court, the respondent is not taking any steps to complete the investigation as they are going with the accused and delaying the investigation will cause wrongful loss to the petitioners and the petitioners have no access to the documents as it is in the custody of the court.

6. The learned Government Pleader submitted that they are prepared to conduct the investigation in the right direction for which the alleged forged documents are required which could not be obtained as it is in the court.

7. It is seen from the allegations in the complaint

that the 2nd petitioner herein was the owner of the property in which certain buildings are situated and the affairs of the 2nd petitioner is being managed by the 1st petitioner. It is also seen from the allegations in the petition that one of the rooms in the property was let out to the accused in the case for conducting his textile shop and he had created certain forged rent receipts so as to deny the right of the petitioners and caused wrongful loss to the 1st petitioner by losing his job. It is also seen from the allegations in the petition that using those documents, he filed the suit before the Munsiff Court as OS.1728/2013 and obtained some interim orders against the 2nd petitioner. When the 1st petitioner came to know that his signature has been alleged to have been forged and some false documents have been created by the accused who is the tenant of the 2nd petitioner, he filed Ext.P1 complaint before the Judicial First Class Magistrate Court-III Thiruvananthapuram against the said accused by name one Baiju alleging offences under Sections 467,468, 420 and 471 of Indian Penal Code.

8. The grievance of the petitioners in this writ

petition is that the 2nd respondent is not conducting the investigation properly and it is being unnecessarily delayed with a view to help the accused. On the other hand the learned Government Pleader appearing for the respondents submitted that since the documents were not produced by the petitioner they are not able to proceed with the investigation and with out those documents no proper investigation could be possible.

9. It may be mentioned here that the petitioners are not in custody of the documents alleged to have been forged and used as genuine documents by the accused. So it is not possible for them to get the original documents from the court in which it was produced as well as those documents were not produced by them before that court as well. They cannot file an application for sending those documents for expert opinion or send the documents to the investigating officer to enable them to proceed with the investigation by getting expert opinion as Civil court has no power to monitor the investigation by by police or other agency. If the parties are interested in getting an expert

opinion for the purpose of deciding the case, only if such an application is filed probably that court may consider that application and pass appropriate orders either under sections 45 or 73 of Evidence Act. If any document is required in connection with the investigation, then it is for the investigating officer to take steps to get those documents from that court in which those documents have been produced in accordance with law and then send the documents for expert opinion and continue with investigation of the case. Without exercising their powers provided under the Code of Criminal Procedure for conducting investigation in respect of forged documents blaming the defacto complainant for not producing the documents cannot be appreciated. So under the circumstances, this court feels that directing the investigating officer to take necessary steps to get the documents from the court in which it is produced in accordance with law and then complete the investigation within a period of six months will be sufficient and that will meet the ends of justice. So the writ petition is disposed of

as follows:

The 2nd respondent investigating officer is directed to take necessary steps to get the documents from the court in which it is said to have been produced after getting the details of the documents and also court before the same it was produced from the complainant in the process known to law and then is complete the investigation as expeditiously as possible at any rate within 6 months from today.

With the above directions and observations this writ petition is disposed of.

Sd/-

K.RAMAKRSHNAN, JUDGE

SKV