

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 19120 of 2015 (L)

PETITIONER:

**P.SATHEESH KUMAR, AGED 34 YEARS,
S/O.SANTHAMMA, KADAMBAD PAPPULLY HOUSE,
NEDUNGOTTUR, SHORNUR, OTTAPPALAM,
PALAKKAD.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY HOME SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. STATE POLICE CHIEF,
POLICE HEADQUARTERS,
THIRUVANANTHAPURAM - 695001.**
- 3. DISTRICT POLICE CHIEF,
OFFICE OF THE DISTRICT POLICE CHIEF,
PALAKKAD - 678001.**
- 4. CIRCLE INSPECTOR OF POLICE,
SHORNUR POLICE STATION, PALAKKAD - 679121,
(CRIME NO 36/2005 OF SHORNUR POLICE STATION,
PALAKKAD DISTRICT)**
- 5. STATION HOUSE OFFICER,
SHORNUR POLICE STATION, PALAKKAD - 679121,
(CRIME NO 36/2005 OF SHORNUR POLICE STATION,
PALAKKAD DISTRICT)**

BY PUBLIC PROSECUTOR SRI.GITHESH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1:- COPY OF FIR IN CRIME NO 36/2005 OF SHORNUR POLICE STATION.**
- P2:- COPY OF FINAL REPORT IN CRIME NO 36/2005 OF SHORNUR POLICE STATION.**
- P3:- COPY OF THE WOUND CERTIFICATES ISSUED FROM ASWINI HOSPITAL (P) LTD THRISSUR, IN FAVOUR OF THE PETITIONER.**
- P4:- COPY OF THE WOUND CERTIFICATES ISSUED FROM ASWINI HOSPITAL (P) LTD, THRISSUR IN FAVOUR OF THE BROTHER OF THE PETITIONER.**
- P5:- COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE JFCM- I, OTTAPALAM AS CMP NO 1969/2015.**
- P6:- COPY OF ORDER DATED 29/5/2015 IN CRL.M.P.1969/2015 IN CC.897/05 BY JFCM-I, OTTAPPALAM.**
- P7:- COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE STATE POLICE CHIEF/2ND RESPONDENT.**

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Dated this the 3rd day of July, 2015.

J U D G M E N T

The prayers in this Writ Petition are as follows:

“i) To issue a writ of mandamus directing the 2nd respondent to direct the investigating agency to conduct further investigation in Crime No.36/2005 of Shornur Police Station and to submit a supplementary report before court below.

ii) To issue a writ of mandamus directing the 2nd respondent to consider and dispose the Ext.P7 petition submitted by the petitioner before the 2nd respondent as expeditiously as possible.

iii) To direct the JFCM-I, Ottappalam to stay further proceedings in CC No.897/2005 on the file of the JFCM-I, Ottappalam, till a decision is taken by the 2nd respondent on the Ext.P7 petition submitted by the petitioner before the 2nd respondent.”

2. The petitioner herein is the defacto complainant/victim in Crime No.36/2005 of Shornur Police Station for offences registered under Secs.341, 447, 324, 326 r/w 34 IPC which has now led to C.C.No.897/2005 on the file of the Judicial First Class Magistrate Court, Ottapalam. It is stated that there is another case in Crime No.37/2005 which has led to C.C.No.902/2005 on the file of the same Magistrate Court which is said to be the counter case in relation to Crime

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No.36/2005 in which the petitioner is the defacto complainant. The petitioner and his brother are the accused in Crime No.37/2005 in which the accused in Crime No.36/2005 is the defacto complainant. The main grievance of the petitioner is that there are serious deficiencies in the conduct of investigation in Crime No.36/2005 which has led to the institution of C.C.No.897/2005 in which the petitioner is the defacto complainant and for effectuating fair and proper investigation in the matter, he has submitted Ext.P7 petition before the 2nd respondent-State Police Chief. The petitioner submits that there has been no effective consideration of Ext.P7 petition and no orders have been passed thereon by the competent authority concerned. The limited prayer made by the petitioner that necessary directions may be given by this Court to the 2nd respondent to enable him consideration of Ext.P7 petition and to pass orders thereon and until then trial in C.C.No.897/2005 and 902/2005 may be deferred. It is pointed out by both sides that trial in respect of both cases has already begun and one witness has already been examined.

3. Heard Sri.S.Rajeev, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondents.

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4. Having regard to the limited prayer made by the petitioner and taking note of the various contentions made by the petitioner in support of his aforesaid prayer, it is ordered in the interest of justice that in case Ext.P7 has not yet been considered, then the 2nd respondent-State Police Chief shall take up the same for consideration without any further delay and examine the matter and ensure that the CD file in respect of Crime No.36/2005 is got examined by a competent subordinate officer and find out and ascertain as to whether the submissions and contentions of the petitioner for the conduct of further investigation is tenable and the 2nd respondent is convinced that necessary measures are to be taken in that regard then he may pass appropriate orders for conducting further investigation in Crime No.36/2005. Consideration and passing of orders in this regard shall be made without any further delay, at any rate, within a period of 3-4 weeks from the date of production of a certified copy of this judgment. To enable expeditious consideration, it is ordered that the 3rd respondent-District Police Chief will himself conduct review of the CD file in Crime No.36/2005 and thereafter the 3rd respondent-District Police Chief, Palakkad shall forward his detailed comments and report on this aspect along with CD files to the 2nd respondent-State Police

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Chief so that time could be saved. The decision taken by the 2nd respondent in this matter as aforesaid shall be, without any further delay, communicated to the District Police Chief concerned and to the Investigating Officer concerned. A copy of the communication in that regard reflecting the decision so taken should also be communicated to the petitioner herein, within a week's time. Until this process is over, it is ordered in the interest of justice that the trial in respect of these cases will be deferred and further steps in the matter may be taken based on the decision that may be taken by the 2nd respondent-State Police Chief as directed.

With these observations and directions, this Writ Petition stands finally disposed of.

ALEXANDER THOMAS,
Judge.

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