

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 19868 of 2014 (G)

PETITIONER :

**SARASWATHY S., AGED 62 YEARS,
W/O.LATE RAMASWAMI ACHARI, TC 9/984, ROHINI BHAVAN,
SHASTHAMANGALAM, THIRUVANANTHAPURAM - 695 010.**

**BY ADVS.SRI.SHABU SREEDHARAN
SRI.C.G.SALIM
SRI.UDAYAKUMAR SREEDHARAN
SRI.B.BALA PRASANNAN**

RESPONDENT :

**THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHAKKAD,
THIRUVANANTHAPURAM - 695 014.**

BY STATE ATTORNEY SRI.P.MJAYARAGHAVAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1: THE TRUE COPY OF THE CLAIM STATEMENT DATED 09/03/2011.
- P2: TRUE COPY OF THE COURIER CONSIGNMENT NOTE OF PROFESSIONAL
COURIERS DATED 09/03/2011.
- P3: THE TRUE COPY OF THE REPRESENTATION DATED 28/6/2011.
- P4: TRUE COPY OF THE LETTER DATED 22/07/2011
- P5: SERIES: THE TRUE COPY OF THE REPLY ALONG WITH THE CLAIM
PETITION AND NOTICE OF ADMISSION OF PROOF DATED 12/3/2011
- P6: THE TRUE COPY OF THE COMPLAINT DATED 1/7/2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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ALEXANDER THOMAS, J.

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Dated this the 22nd day of July, 2015.

J U D G M E N T

It is stated by the petitioner that the petitioner/complainant was an employee in M/s. Keltron Counters Ltd., which is a subsidiary unit of Keltron from 27.12.1971 and the management of the company has terminated her from service as per the Voluntary Retirement Scheme (VRS) without her consent. M/s. Keltron Counters Ltd., was liquidated in the year 2009. It is pointed out that Adv.Sri.Adithya Shenoy had been appointed as the Advocate Commission by this Court in C.P.No.11/2002, who was entrusted with the responsibilities of settling the claims of the employees of M/s. Keltron Counters Ltd., and thereupon the petitioner submitted Ext.P1 claim for settlement for her dues at Rs.15,94,775/- to the Advocate Commission appointed by this Court. It is alleged by the petitioner that some one forged petitioner's signature and misappropriated an amount of Rs.2.2 Lakhs by submitting bogus

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and fake request without the knowledge and consent of the petitioner and that she is the victim of criminal offence of forgery and cheating. The petitioner lodged Ext.P6 complaint before the respondent-State Police Chief complaining that no crime has been registered by the police and that Ext.P6 was forwarded to the District Police Chief, Thiruvananthapuram, who in turn forwarded the same to the Assistant Commissioner of Police, Sangumugham and thereupon the Sub Inspector of Police, Sreekaryam was entrusted to take appropriate action. Pursuant to this Crime No.896/2014 has been registered by the Sreekaryam Police Station for offence under Secs.406, 420 & 465 of the IPC. The prayer in this Writ Petition is for mandamus to direct the respondent-State Police Chief to entrust the investigation to Economic Offences Wing of the Crime Branch to conduct detailed investigation in the matter.

2. Initially, the Investigating Officer has filed two statements, one on 11.8.2014 and another on 7.1.2015. In paragraph 4 of the statement dated 11.8.2014, it is stated that the investigation of the case is in a preliminary state and that more

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records and evidence to be collected to prove the allegations raised by the complainant and that more witnesses are to be questioned and that the original documents which are alleged to be fabricated, are to be collected from the Advocate Commission concerned who has been requested to produce original documents for FSL examination along with standard documents of the complainant, etc. In the second statement dated 7.1.2015, the further steps in the investigation has also been dealt with and it is also stated therein that the request was given to the Advocate Commission to provide the original documents for FSL with standard documents of the complainant. It is pointed out that investigation has been conducted in a fair, proper and impartial manner and there is no need to change the Investigating Officer or to entrust the investigation to any other agency.

3. This Court as per order dated 15.6.2015 had requested the learned State Attorney appearing for the respondent to get instructions as to the present stage of the FSL examination referred to in paragraph 3 of the statement dated 7.1.2015 and the time

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required for completing the steps in that regard. Now, the Investigating Officer has filed a third statement dated 15.7.2015. In paragraph 3 of the said statement, it is stated that during the course of investigation, the Advocate Commission was interrogated and disputed document was seized on mahazar on 24.6.2015, that later the defacto complainant (petitioner) was also further examined and specimen signatures were also obtained and admitted signatures of the defacto complainant were obtained from the Canara Bank, Shastamangalam Branch on 3.7.2015 and all these documents were produced before the Judicial First Class Magistrate Court, Thiruvananthapuram on 6.7.2015 and forwarded the same to the FSL in order to examine and verify the genuineness of the signatures seen in the questioned documents. It is further submitted that M/s. Keltron Counters Ltd., was liquidated in the year 2009 and its assets were handed over to Tax Department of the Government and hence no documents or material evidence are available for the smooth conduct of the investigation and that the FSL results are expected to be available

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soon. It is also pointed out in paragraph 8 of the said statement dated 15.7.2015 that it is revealed that the signature has been forged and to conduct a scientific examination of the same, the forged signature as well as the admitted signature were sent to the FSL, Thiruvananthapuram for their comparison and report through the competent criminal court on 7.7.2015 and immediately on getting the report, further steps will be taken to file final report. It is also relevant to note paragraphs 5 to 7 of the said statement which reads as follows:

“5. It is submitted that the investigation conducted so far would prima facie reveal that some sort of foul play has been committed as alleged by the petitioner in submitting the claim to Adv.Adithya Shenoy, the Advocate Commission appointed by this Honourable court in C.P.No.11/2002. He was interrogated and it is revealed that the questioned document ie. the claim form was submitted through advocate Subhash Cyriac, along with 34 other applications, and the complainant admitted that she met Adv. Subhash Cyriac earlier. The Advocate Commission, while adjudicating the claim, after consulting with the Standing Council (sic) for Keltron Counters Ltd., allowed a sum of Rs 2,20,000/- as terminal benefits to the complainant. However, the complainant claimed that she was entitled to get a sum of Rs.15,04,775/- as terminal benefits.

6. It is respectfully submitted that in the Keltron Employees Co-operative Society Ltd., the petitioner has to pay a sum of Rs. 1,32,734/- towards loan repayment and Rs.25,000/- towards chitty repayment. Apart from this, the petitioner defaulted loan repayment

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with Kerala State Co-operative Bank Ltd., Medical college branch and Rs. 4,40,162/- is now outstanding against her account. All the said loans and chitty were availed by the petitioner while she was working with Keltron Counters Ltd., and her belief was that the management had deducted all the outstanding amount against her claim and the balance was allowed as terminal benefit to her. On enquiry conducted at the office of the above establishments, it is revealed that the above said amounts were not paid by the management and is still outstanding against the petitioner.

7. It is respectfully submitted that during the course of investigation it is revealed the contention of the petitioner that her claim for higher amount as terminal benefits as 32 years of service is genuine and that many of her colleagues who were having similar period of service received terminal benefit amounts to the tune of Rs. 4 to 5 Lakhs. This would also indicate prima facie that the petitioner was defrauded by the management.”

4. Heard both sides.

5. On going through the materials on record made available in the Writ Petition as well as the three statements filed by the Investigating Officer, this Court is of the considered opinion that no interference is called for giving any directions to the respondent-State Police Chief to entrust the investigation to the Crime Branch or any other different agency. On going through the averments in the three statements filed by the Investigating Officer, it cannot be said that the investigation has been carried out improperly or it has been misdirected. It is to be noted that M/s.Keltron Counters Ltd. was

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liquidated as early as in 2009 and its assets were handed over to Tax Department of Government of Kerala and that no materials are now available for smooth conduct of the investigation. Even despite these constrains, the Investigating Officer has proceeded to effect questioning and collected specimen sample of the documents for transmission to the FSL through the competent criminal court concerned. Accordingly, it is ordered that Director, FSL will ensure that further steps with regard to the test results pertaining to the aforestated documents in Crime No.896/2014 of Sreekaryam Police Station shall be expedited without any further delay and shall be ensured that the test results are forwarded by the FSL to the competent criminal court with copy to the Investigating Officer concerned. The learned State Attorney will forward certified copy of this order to the Director, FSL, Thiruvananthapuram, and appropriate action is taken to complete such process without any further delay. After receiving the opinion from the FSL, Investigating Officer will complete the investigation in its entirety and submit final report before the competent criminal court. Before submitting the final report, it shall be ensured that the District Police Chief, Thiruvananthapuram shall ensure that the entire investigation so far done by the Investigating Officer shall be supervised

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by an officer not below the rank of Deputy Superintendent of Police, who shall give necessary guidance and supervisory directions to the Investigating Officer. Based on such process, investigation shall be completed under the due supervision and guidance of the Deputy Superintendent of Police. The final report shall be prepared and should be given to the District Police Chief, who shall also review the entire investigation and ensure that the investigation has been carried out in the proper and correct lines. After this process is over, the final report so finalised shall be submitted before the competent criminal court concerned. Learned State Attorney will forward a certified copy of this judgment to the District Police Chief for effective compliance of this directions and shall also thereupon ensure aforestated supervision of the investigation.

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

ALEXANDER THOMAS,
Judge.

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