

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WP(C).No. 21076 of 2015 (H)

PETITIONER :

**MUHAMMED IBRAHIM
AGED 30, S/O.SHAHUL HAMEED,
RESIDING AT M.P.STREET, NAVAKKODE
KODUVAYOOR POST, CHITTUR TALUK,
PALAKKAD.**

BY ADV. SRI.P.M.HABEEB

RESPONDENT(S) :

- 1. STATION HOUSE OFFICER
NENMARA POLICE STATION,
PALAKKAD DISTRICT- 678 508.**
- 2. SUB INSPECTOR OF POLICE
NENMARA POLICE STATION,
PALAKKAD DISTRICT- 678 508.**
- 3. THE CIRCLE INSPECTOR OF POLICE
NENMARA POLICE STATION,
PALAKKAD DISTRICT- 678 508.**
- 4. SUPERINTENDENT OF POLICE
PALAKKAD- 678 001.**
- 5. THE DIRECTOR GENERAL OF POLICE
POLICE HEADQUARTERS, TRIVANDRUM-695 001.**

R1 TO R5 BY PUBLIC PROSECUTOR SRI. R. GITHESH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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...2/-

WP(C).No. 21076 of 2015 (H)

APPENDIX

PETITIONERS' EXHIBITS :

**EXT. P1- THE PHOTOCOPY OF THE PRIVATE COMPLAINT FILED BY THE
 PETITIONER BEFORE THE JFCM COURT ALATHUR.**

**EXT. P2- THE PHOTOCOPY OF THE DISCHARGE CERTIFICATE DATED
 10.05.2015 OF ELITE MISSION HOSPITAL.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

ALEXANDER THOMAS, J.

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W.P.(C).No.21076 of 2015

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Dated this the 3rd day of August , 2015

JUDGMENT

The prayer in this W.P(C) filed under Article 226 of the Constitution of India is for a mandamus to direct the respondents 4 and 5 to entrust the investigation in Crime No.603/2015 of Nenmara Police Station to a superior Officer.

2. Heard Sri. P.M.Habeeb, learned counsel for the petitioner and the Public Prosecutor appearing for the respondent–State of Kerala.

3. It is by now too well established to cite any judicial authority to state that the course of action for prerogative remedy of mandamus can be maintained only if there is a demand for the request in question which is coupled with its rejection or deliberate inaction thereon. There is no averment anywhere in this Writ Petition that any such demand has been made by the petitioner seeking the entrustment of the further investigation to a Officer superior to the present Investigating Officer or that there has been refusal thereto or that has been complete inaction thereon by the authority concerned. A statement dt.24-07-2015 has been filed on behalf of the Investigating Officer in this crime.

4. Therefore it is for the petitioner to make an appropriate application/petition before the District Police Chief, Palakkad pin pointing the deficiencies borne out from the present investigation and the manner in which the Investigation has been misdirected or not carried out properly. The learned counsel for the petitioner then submits that the liberty may also given to him to pinpoint the deficiencies in the investigation from the averments and the materials now made available in the statement dt.24-07-2015 filed on behalf of the Investigating Officer. It is certainly open to the petitioner to place reliance on such statement in the comprehensive application that is to be filed by the petitioner before the 4th respondent-the District Police Chief and then the latter will ensure that a well considered decision is taken thereon and communicated to the petitioner without any further delay. In this process the District Police Chief may call for the entire C.D files relates to this crime and get it examined by an Officer not below the rank of Deputy Superintendent of Police(Dy.SP) to find out whether there are deficiencies in this investigation or there are matters in which the investigation has been misdirected or not carried out properly. The averments and contentions in the petition that may be filed by the petitioner may also be adverted to and an appropriate decision

thereon may be taken within a period of one month from the date of the submission of the representation along with the certified copy of this judgment.

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

Sd/-
ALEXANDER THOMAS, JUDGE

AVS