

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C) .No. 21425 of 2015 (C)

PETITIONER:

MOHANDAS AGED 38 YEARS
S/O.VELAYUDHAN, PARAKULANGARA HOUSE, MUTHUVALLUR
MALAPPURAM DISTRICT

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

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY HOME SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695001

2. STATE POLICE CHIEF
POLICE HEADQUARTERS, VAZHUTHACAUD
THIRUVANANTHAPURAM 695001

3. DISTRICT POLICE CHIEF
OFFICE OF THE DISTRICT POLICE CHIEF
MALAPPURAM 676505

4. CIRCLE INSPECTOR OF POLICE
KONDOTTY CIRCLE, MALAPPURAM 673638

5. SUB INSPECTOR OF POLICE
KONDOTTY POLICE STATION, MALAPPURAM 673638
(CRIME NO.564/2011 OF KONDOTTY POLICE STATION
MALAPPURAM DISTRICT)

6. SUPERINTENDENT OF POLICE (CRIME BRANCH)
OFFICE OF CRIME BRANCH, MALAPPURAM UNIT
MALAPPURAM 673638

R1-R6 BY ADV. GOVERNMENT PLEADER: ADV.SMT.MAYA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-09-2015, ALONG WITH CRMC. 1459/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT P1:TRUE COPY OF THE FIR IN CRIME NO. 564/2011 OF KONDOTTY POLICE STATION

EXT P2:TRUE COPY OF THE REPORT SUBMITTED BY THE DY. SUPERINTENDENT OF POLICE, NARCOTIC CELL, MALAPPURAM, OBTAINED UNDER THE RIGHT TO INFORMATION ACT

EXT P3:TRUE COPY OF THE REPORT SUBMITTED BEFORE THE JFCM, MALAPPURAM BY THE 5TH RESPONDENT

RESPONDENT(S) ' EXHIBITS: NIL

True Copy /

P.A to Judge

SUNIL THOMAS, J.

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W.P(C).No.21425 of 2015 and Crl.M.C.No.1459 of 2015

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Dated this the 9th day of September, 2015

JUDGMENT

Both arise from Crime No.564 of 2011 of the Kondotty Police Station for offence punishable under Section 457 and 380 of the Indian Penal Code.

2. Writ petitioner, who is the de facto complainant alleges that sometime in between 10.07.2011 and 11.07.2011, the unidentified accused broke open his industrial unit and committed theft of articles including his machineries. Pursuant to a complaint, a crime was registered and ultimately a refer report was filed without notice to the de facto complainant. Thereupon, the District Police Chief ordered a further investigation which was investigated by another team. The writ petitioner has a grievance that in spite of a secret talk of the suspects recorded and the CD handed over to the Investigating Officer, it has not been effectively investigated. The grievance of the petitioners in Crl.M.C.No.1459 of 2015 who claimed to be the suspected persons, is that they are being harassed in the process of investigation. They inter alia sought for an expeditious completion of investigation, which itself is the relief sought by the writ petitioner in W.P(C).No.21425 of 2015.

3. Heard the learned counsel for the writ petitioner, learned counsel for the petitioners in the CrI.M.C. and the learned Public Prosecutor.

4. Learned Public Prosecutor has filed detailed statement narrating investigation conducted by the investigating agency till now. It is seen that the matter is now being investigated by the Deputy Superintendent of Police, Crime Branch, Malappuram. The Investigating Officer has reported that an application for conducting polygraph test of the suspected persons with their own consent was filed, but rejected by the court below. Ext.P3 discloses production of CD by the de facto complainant, which will throw some light on the course of investigation to be conducted by the investigating agency. The specific grievance of the writ petitioner is that the police appears to be proceeding against only one among the person whose complicity is disclosed in the CD, leaving aside the other person.

5. It is ultimately for the investigating agency to direct itself about the course of action to be taken. However, it is only to be reminded that the investigation has to be effective, especially in the light of the grievance and doubts raised by the writ petitioner. Though, I am not inclined to give specific direction regarding the

mode of investigation and course of investigation to be conducted, it is only to be fair, impartial and effective. The investigating agency also shall take in to consideration the above submissions made by the learned counsel for the petitioner in the writ petition and decide accordingly.

6. It is directed that investigating agency shall try to complete the investigation at the earliest, having regard to the delay that has already been caused. Regarding the grievance made by the petitioners in CrI.M.C.No.1459 of 2015, I feel that no comment is liable to be made, except that it is only in their interest that the investigation is completed at the earliest. To allay the grievance of the writ petitioner, it is directed that the immediate superior of the investigation officer shall at regular intervals, at any rate, twice in a month, monitor the progress of investigation.

In the result, both writ petition and CrI.M.C. are disposed of. It is made clear that no comment is made regarding the complicity of any person involved.

Sd/-

SUNIL THOMAS
Judge

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