

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 23676 of 2015 (H)

PETITIONER :

NIYAS AGED 36 YEARS
S/O.ABDUL KARIM, NIYAS MANZIL, CHAVARA
KOLLAM DISTRICT - 691 583.

BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE

RESPONDENTS :

1. STATE POLICE CHIEF
THIRUVANANTHAPURAM - 695 001.
2. CITY POLICE COMMISSIONER
OFFICE OF COMMISSIONER OF POLICE, KOLLAM - 691 001.
3. THE DEPUTY SUPERINTENDENT OF POLICE
SPECIAL BRANCH, KOLLAM - 691 001.
4. THE DEPUTY SUPERINTENDENT OF POLICE
CYBER CRIME, THIRUVANANTHAPURAM - 695 001.
5. SHAHITHA
D/O.ABDUL LATHEEF, SAHITHA MANZIL, M.S.NAGAR - 56
KALLUMTHAZHAM, KOLLAM DISTRICT - 691 004.
6. ABDUL LATHEEF
SAHITHA MANZIL, M.S.NAGAR - 56, KALLUMTHAZHAM
KOLLAM DISTRICT - 691 004.

R1 TO R4 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAMKUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 23676 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P-1: COPIES OF PHOTOGRAPHS OF 6TH RESPONDENT AND THE HOME MINISTER.

EXT.P-2: COPY OF COMPLAINT FILED BY THE PETITIONER BEFORE THE DISTRICT POLICE COMPLAINANTS AUTHORITY, KOLLAM.

EXT.P-3: COPY OF RECEIPT DT.31.7.15 ISSUED FROM THE COLLECTORATE, KOLLAM (IN MALAYALAM).

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 23676 OF 2015

Dated this the 12th day of August, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel for the petitioner and learned Government Pleader. No notice is being issued to 5th and 6th respondents in view of the order which is being passed.

2. This writ petition has been filed by the petitioner alleging harassment by police. Petitioner's case is that 5th respondent was his wife who has already been divorced and 6th respondent is the father of 5th respondent. Learned counsel for the petitioner submits that there has been a matrimonial dispute between the petitioner and 5th respondent. Details of litigation have been mentioned in paragraph 6 of the writ petition. He submits that Mat. Appeal Nos.897/2014 and 318/2014 have been disposed of on 10.08.2015. Petitioner's grievance is that he has been informed that a complaint dated 22.07.2015 has been

received against him and he was directed to appear on 23.07.2015. Petitioner could not appear on 23.07.2015 and he appeared on 24.07.2015. Petitioner's case is that he was again called on 28.07.2015 and asked to appear on 01.08.2015.

3. Learned Government Pleader after obtaining instructions submits that a complaint was received from the 5th respondent that petitioner has taken away the passports of two children and in that connection the petitioner was called. It is submitted that the petitioner had appeared on 01.08.2015 and his statement has already been recorded.

4. Learned counsel for the petitioner submits that it is obligatory on the part of respondents under Section 41A of the Code of Criminal Procedure, 1973, where the arrest of a person is not required under the provisions of Section 41 (1), the police officer shall issue notice if the presence of the petitioner is required with regard to any investigation.

Be that as it may, in the facts of the present case we do not find any police harassment. However, in the event

if the petitioner's presence is required before the Police, notice as per Section 41A should have been issued to him.

With the above observation, the Writ Petition is closed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**