

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C) .No. 24219 of 2014 (B)

PETITIONER:

MADHU.V.M, AGED 36 YEARS,
S/O. MOHANAN, VETOMKATTIL HOUSE, SOUTH JETTY,
PERUMBALAM P.O - 688 570, WARD VIII, CHERTHALA,
ALAPPUZHA DIST.

BY ADV. SRI.P.T.JOSE

RESPONDENTS:

1. STATE POLICE CHIEF,
POLICE HEADQUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM - 695 010.
2. THE SUPERINTENDENT OF POLICE,
ALAPPUZHA - 688 001.
3. THE CIRCLE INSPECTOR OF POLICE,
CHERTHALA - 688 533.
4. THE SUB INSPECTOR OF POLICE,
POOCHAKKAL POLICE STATION,
ALAPPUZHA DIST - 688 526.
5. SHAJI , AGED 47 YEARS
S/O KUMARAN, JATHIKADAVU, PERUMBALAM PO,
WARD - 8, CHERTHALA - 688 570
6. VISHWAMBARAN, AGED 52 YEARS,
S/O KANNAN, JATHIKADAVU, PERUMBALAM P.O,
WARD-8, CHERTHALA - 688 570.
7. SURESH, AGED 36 YEARS,
S/O. KUMARAN, JATHIKADAVU, PERUMBALAM PO
WARD-8, CHERTHALA - 688 570.
8. VINOD, AGED 39 YEARS
S/O KUMARAN, JATHIKADAVU, PERUMBALAM PO
WARD-8, CHERTHALA - 688 570.

9. RANISH, AGED 30 YEARS,
S/O RAJU, VETOMKATTIL, JATHIKADAVU,
PERUMBALAM PO, WARD-8, CHERTHALA - 688 570.
10. SAJEEV, AGED 43 YEARS,
S/O. KUMARAN, JATHIKADAVU, PERUMBALAM P.O,
WARD-8, CHERTHALA - 688 570.
11. SAYOSH, AGED 19 YEARS,
S/O. SOMAN, THKKEMOOLEPARAMBU, JATHIKADAVU,
PERUMBALAM PO, WARD-8, CHERTHALA - 688 570.
12. SANOJ, AGED 19 YEARS,
S/O SATHYAN, PUTHEN PEEDIKACHIRA, PULICKACHIRA,
JATHIKADAVU, PERUMBALAM PO, WARD-8,
CHERTHALA - 688 570.

R1-R4 BY PUBLIC PROSECUTOR SMT.P.MAYA
R5-12 BY ADV. SRI.PEYUS A.KOTTAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 24219 of 2014 (B)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1 : COPY FIR REGISTERED IN CRIME NO.588/2014 OF
POOCHAKKAL POLICE STATION DATED 17.06.2014.

EXHIBIT P1(A) : COPY F1 STATEMENT REGISTERED IN CRIME NO.588/2014
OF POOCHAKKAL POLICE STATION DATED 17.06.2014.

EXHIBIT P2 : COPY OF THE CASUALTY REGISTRATION CARD OF GENERAL
HOSPITAL, ERNAKULAM DATED 16.06.2014

EXHIBIT P3 : COPY OF THE REPRESENTATION DATED 19.09.2014 FILED
BEFORE THE 1ST AND 2ND RESPONDENTS

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

W.P(C) No.24219 of 2014

Dated this the 4th day of March, 2015

J U D G M E N T

The writ petitioner is the defacto complainant in Crime No.588/2014 of the Poochakkal Police Station. He sustained grievous injuries in the alleged incident of assault. After investigation, the police submitted final report in Court. Pending investigation, the petitioner brought this writ petition for a writ of mandamus directing the police to make a proper and effective investigation. It appears that the petitioner's grievance is that inspite of the very serious injuries sustained by him in the alleged incident, the police has been investigating only under Section 326 of IPC. He seeks a direction to incorporate Section 307 of IPC also.

2. Now it is submitted by the learned Public Prosecutor that the police has already submitted final report in court, and the major offence alleged in the final report is under Section 326 of IPC. Still the petitioner is not satisfied. He seeks a direction for further investigation to incorporate Section 307 of IPC in the final report. The complainant cannot dictate to the police to incorporate this section or that section in the final

report. The police has made a proper investigation and submitted final report on the finding that what is at the most attracted is the offence under Section 326 of IPC. For a prosecution under Section 307 IPC, something more is required. It is not known what injury sustained by the petitioner is likely to cause death in the ordinary course, or is sufficient to cause death in the ordinary course. He sustained fracture of both the legs and also fracture of humerus. It is not known how these injuries will attract a prosecution under Section 307 IPC. Anyway, there is now a final report in court. If the petitioner is aggrieved by the final report, remedies are open to him. Without prejudice to those remedies available under the law, this writ petition can be closed. At this stage, in this proceeding, an order for further investigation cannot be made by this Court.

In the result, this Writ Petition is closed without prejudice to the right of the petitioner to seek appropriate remedies available under the law, as regards the final report submitted by the police.

**P.UBAID
JUDGE**

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