

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 24169 of 2015 (U)

PETITIONER(S):

**ROSHAN SEBASTIAN, AGED 35, S/O.SEBASTIAN VARKEY,
KUZHIVELIMATTATHIL HOUSE, VAZHAVARA P.O., 7TH MILE,
KATTAPPANA VILLAGE, IDUKKI TALUK
IDUKKI DISTRICT-685 515.**

BY ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY SECRETARY,
DEPARTMENT OF HOME AFFAIRS,
TRIVANDRUM-695 001.**
- 2. THE SUPERINTENDENT OF POLICE, IDUKKI DISTRICT,
OFFICE OF THE SP, KUYILIMALA, PAINAVU
IDUKKI-685 626.**
- 3. THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT,
KATTAPPANA-685 515.**
- 4. THE CIRCLE INSPECTOR OF POLICE, OFFICE OF THE CI,
KATTAPPANA-685 515.**
- 5. THE SUB INSPECTOR OF POLICE, OFFICE OF THE SUB INSPECTOR,
KATTAPPANA-685 515.**
- 6. NOBY JOSEPH, AGED 42, S/O.P.V.JOSEPH, PUTHENPURAKKAL,
CALVARY MOUNT P.O., 7TH MILE, THANKAMANI VILLAGE,
IDUKKI TALUK, IDUKKI DISTRICT-685 515.**

R1-R5 BY ADV. GOVERNMENT PLEADER SMT.MAYA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD

WP(C).No. 24169 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE PHOTOSTAT COPY FIR IN CRIME NO.417/2014.

EXT.P2: TRUE PHOTOSTAT COPY OF FINAL REPORT IN CRIME NO.416/2014.

EXT.P3: TRUE PHOTOSTAT COPY OF STATEMENT GIVEN BY GOPI.

EXT.P4: TRUE PHOTOSTAT COPY OF STATEMENT GIVEN BY ABRAHAM.

EXT.P5: TRUE PHOTOSTAT COPY OF STATEMENT GIVEN BY THE 6TH RESPONDENT.

EXT.P6: TRUE PHOTOSTAT COPY OF FIR IN CRIME NO.1114/2012.

EXT.P7: TRUE PHOTOSTAT COPY OF FINAL REPORT IN CRIME NO.1114/2012.

EXT.P8: TRUE PHOTOSTAT COPY OF PAPER NEWS WHICH APPEARED IN
MATHRUBHOOMI IN 2012 SEPTEMBER 19.

EXT.P9: TRUE PHOTOSTAT COPY OF PAPER NEWS WHICH APPEARED IN MALAYALA
MANORAMA IN 2012 SEPTEMBER 19.

EXT.P10: TRUE PHOTOSTAT COPY OF REPRESENTATION GIVEN TO THE 2ND
RESPONDENT.

EXT.P11: TRUE PHOTOSTAT COPY OF RECEIPT DATED 10.06.2015 ISSUED BY THE
2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

AD

B.KEMAL PASHA, J.

W.P(C).No.24169 of 2015

Dated this the 29th day of October, 2015

JUDGMENT

It seems that Final Reports are filed in the case against the petitioner, as well as in the case in which the Uncle of the petitioner is the de facto complainant.

2. According to the petitioner, he is a witness in the case in which his Uncle is the de facto complainant. It is the case of the petitioner that the entire transactions in the incidents were video graphed by using his mobile phone, which constitutes an electronic evidence within the meaning of the Indian Evidence Act, 1872 read with the provisions of the Information Technology Act, 2000. The complaint is that even though a further investigation was sought for, a so called further investigation was conducted without making use of the said electronic record presently with the petitioner.

3. The Uncle of the petitioner can very well approach the Court below under Section 301(2) Cr.P.C, in the case in which the Uncle of the petitioner is the de

facto complainant, and to produce the said electronic evidence available with the petitioner before the court below in that particular case, and seek for a further investigation under Section 173(8) Cr.P.C. In such case, the court below shall pass appropriate orders in accordance with law. With the said observations, this writ petition is closed.

Sd/-
B.KEMAL PASHA
JUDGE

AD/29/10/15