

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

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THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

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

WP(C).No. 27254 of 2015 (F)

PETITIONER :

**SHINOD.P., S/O. PARAMESWARAN, AGED 43 YEARS,
PROPRIETOR, AARPEE TRAVELS, OPP: MEDICAL CENTRE,
PARVATHY TOWER, PALARIVATTOM,
RESIDING AT PUTHENPARAMBIL HOUSE,
ALUPURAM.P.O., UDYOGAMANDAL.**

BY ADV. SRI.E.D.GEORGE

RESPONDENT(S):

- 1. CIRCLE INSPECTOR OF POLICE,
ERNAKULAM TOWN NORTH POLICE STATION,
ERNAKULAM, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. MANJULA DINESHAN, AMMANCHERI HOUSE,
MAMANGALAM, PALARIVATTOM-25.**

R1 BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.27254/2015

APPENDIX

PETITIONER'S EXHIBITS:

**P1 COPY OF THE ORDER DATED 17/8/2015 PASSED BY THE SESSIONS JUDGE,
ERNAKULAM.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 27254 of 2015

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Dated this, the 9th day of September, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court alleging harassment by the police. It is stated that he had certain disputes with the 2nd respondent and on the basis of a complaint given by the 2nd respondent, he was forcefully summoned to the Police Station and detained there on 8/8/2015 from 10.00 a.m. to 4.00 p.m and on 9/8/2015. His mobile phone was also taken away by the police and the same has not been returned so far. Though the petitioner filed application for anticipatory bail, he was informed that no crime has been registered against him. Petitioner submits that, still, the police is calling upon him to appear before the Police Station and therefore, this writ petition is filed.

2. Learned Government Pleader on instructions would submit that petitioner was summoned to the Police Station on 8/8/2015 on the basis of a complaint given by the 2nd respondent

and finding that the parties were involved in a monetary transaction, which was of civil nature, the complaint was closed. Though the petitioner had submitted an application for anticipatory bail before the District Court, petitioner did not have a case that his mobile phone was seized by the police. According to the learned Government Pleader, instructions received was that the petitioner's mobile phone was not taken by the police.

3. It is further stated by the learned Government Pleader that the 2nd respondent had preferred private complaint before the learned Magistrate and on a reference under Section 156(3) of the Criminal Procedure Code, crime has been registered and the petitioner is summoned for appearing before the police for interrogation. It is stated that knowing about the aforesaid crime, this writ petition has been filed.

4. Having regard to the allegations raised by the petitioner that he was unnecessarily detained on 8/8/2015 and 9/8/2015 and that his mobile phone has been taken away, since the said fact has been disputed, it is always open for the petitioner to prefer a complaint before the appropriate authority or the complaint cell, as the case may be. Since it is a disputed

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question of fact, this Court cannot adjudicate on such issues in this writ petition.

5. As far as the allegation of harassment is concerned, since the police is intending to question the petitioner on the basis of the crime registered, we do not think that summoning the petitioner will amount to harassment as the police will have to conduct an investigation and file appropriate report before the learned Magistrate.

Under such circumstances, reserving right of the petitioner to prefer appropriate complaint before the competent authority, this writ petition is closed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge