

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 27775 of 2014 (V)

AGAINST THE JUDGMENT IN SC 426/2011 OF II ADDL. SESSIONS COURT,
PALAKKAD

PETITIONER(S):

SARASWATHY, AGED 67 YEARS
W/O.LATE NARAYANAN, MOOCHIKKAL VEEDU
THENNILAPURAM
ALATHOOR, PALAKKAD.

BY ADVS.SRI.C.M.NAZAR
SRI. S.SUDARSANAN

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS HOME SECRETARY
GOVT. SECRETARIATE
THIRUVANANTHAPURAM.
2. DEPUTY SUPERINTENDENT OF POLICE,
CRIME BRANCH C.I.D., HHW-11, SUB UNIT
PALAKKAD.

ADDITIONAL 3RD RESPONDENT

3. ANWAR SADATH
AGED 39 YEARS
S/O.ABDU, CHEERA THAYAN VEEDU
MUKKANNAM, MANNARKAD, PALAKKAD DISTRICT.

IMPLEADED AS PER THE ORDER IN I.A.NO.16594/2014 DATED 5.2.2015

RADDL. BY ADV. SRI.S.RAJEEV
RADDL. BY ADV. SRI.K.K.DHEERENDRAKRISHNAN
BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 27775 of 2014 (V)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. A TRUE COPY OF THE FINAL REPORT AND WITNESS LIST IN CRIME
13/CR/2008 OF C.B.C.I.D HHW-11, PALAKKAD.

EXHIBIT P2. A TRUE COPY OF THE REPRESENTATION DATED 20.10.2014
SUBMITTED BY THE PETITIONER BEFORE THE FIRST
RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A. TO JUDGE

K.T.SANKARAN, J.

W.P.(C) No.27775 of 2014

Dated this the 5th day of February, 2015

JUDGMENT

The petitioner is the mother of deceased Thilakan who was allegedly murdered by the accused in Sessions Case No.426 of 2011 on the file of the Second Additional Sessions Court, Palakkad. The trial of the case commenced on 7.10.2014. The petitioner submitted Exhibit P2 application dated 20.10.2014 before the Government to appoint a Special Public Prosecutor in the case. In Exhibit P2, it is stated that most of the accused in S.C.No.426 of 2011 are having criminal background and many of them are involved in several murder cases. It is also stated that the accused are members of a quotation gang and they have influence at higher level. Further statement in Exhibit P2 is that when the accused appeared for trial, they

openly declared that nothing could be done against them and they have approached the concerned for their help. The request in Exhibit P2 is to appoint Advocate R.Anand, Anand Nivas, Puthuppariyaram, Palakkad as Special Public Prosecutor.

2. The relief sought for in the Writ Petition is to issue a writ of mandamus commanding the first respondent to pass orders on Exhibit P2 petition within a time limit and to direct the Second Additional Sessions Court to defer the trial of S.C.No.426 of 2011 till orders are passed on Exhibit P2. At the time when the Writ Petition was filed, six witnesses were examined in the Sessions Case as disclosed by the Writ Petitioner in paragraph 4 of the Writ Petition. The second accused in the case filed I.A.No.16594 of 2014 to implead him as additional third respondent in the Writ Petition. The application was allowed. The learned counsel appearing for the

additional third respondent submitted that ten witnesses were already examined in the Sessions Case. The grievance of the additional third respondent is that pendency of the Writ Petition causes delay for the disposal of the Sessions Case since this Court had granted a stay of the trial of the case.

3. Exhibit P2 petition is pending before the Government. The Government has to decide whether a Special Public Prosecutor has to be appointed for the conduct of the Sessions Case concerned. Exhibit P2 is not disposed of so far. The grievance of the petitioner is also not redressed. Meanwhile, trial of the case commenced and some of the witnesses were examined.

In the facts and circumstances, the Writ Petition is disposed of with the following directions :

- (i) The Government shall consider Exhibit P2 application submitted by the petitioner to appoint a Special Public Prosecutor and dispose of the same in accordance with law within a period of one month.
- (ii) If the petitioner wants to be heard in person, the petitioner shall make a request for that purpose within one week before the Government.
- (iii) Trial of S.C.No.426 of 2011 on the file of the Second Additional Sessions Judge, Palakkad, shall stand stayed till 10.3.2015, so as to enable the Government to consider and dispose of Exhibit P2 application as mentioned above.

(iv) The Second Additional Sessions Court, Palakkad,
shall expedite the trial of the Sessions Case.

K.T.SANKARAN
JUDGE

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