

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 28003 of 2014 (A)

CRIME NO.268/2011 OF PALAKKAD TOWN SOUTH POLICE STATION.

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PETITIONER(S):

- 1. RAJAN, S/O.PAZHANIMALA,
KIZHAKKUMPURAM, MOOZHIPULAM,
THIRUNELLAYI POST, PALAKKAD.**
- 2. SAHADEVAN, S/O.PAZHANIMALA,
KIZHAKKUMPURAM, MOOZHIPULAM,
THIRUNELLAYI POST, PALAKKAD.**
- 3. VIJAYAN, S/O.PAZHANIMALA,
KIZHAKKUMPURAM, MOOZHIPULAM,
THIRUNELLAYI POST, PALAKKAD.**
- 4. JAYANTHI, D/O.PAZHANIMALA,
KIZHAKKUMPURAM, MOOZHIPULAM,
THIRUNELLAYI POST, PALAKKAD.**

**BY ADVS.SRI.SAJAN VARGHEESE K.,
SRI.LIJU. M.P.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REP. BY SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
HOME (C) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 3. THE DISTRICT COLLECTOR/ DISTRICT MAGISTRATE,
COLLECTORATE, PALAKKAD-678 001.**
- 4. THE DISTRICT SUPERINTENDENT OF POLICE,
OFFICE OF DISTRICT SUPERINTENDENT OF POLICE,
PALAKKAD-678 001.**

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**5. THE CIRCLE INSPECTOR OF POLICE,
TOWN SOUTH CIRCLE OFFICE, PALAKKAD-678 001.**

BY PUBLIC PROSECUTOR SMT.P. MAYA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 28003 of 2014 (A)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1: TRUE COPY OF THE FIR IN CRIME NO.268/2011 OF TOWN SOUTH POLICE STATION, PALAKKAD.

EXHIBIT-P2: TRUE COPY OF THE PETITION DATED 26.08.2014 SUBMITTED TO 1ST RESPONDENT.

EXHIBIT-P3: TRUE COPY OF THE PETITION DATED 26.08.2014 SUBMITTED TO 4TH RESPONDENT.

EXHIBIT-P4: TRUE COPY OF THE LETTER DATED 26.08.2014 SUBMITTED TO 5TH RESPONDENT.

EXHIBIT-P5: TRUE COPY OF THE LETTER NO.76908/C4/2014/HOME DATED 19.09.2014 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

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W.P.(C).No.28003 of 2014

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Dated this the 8th day of October, 2015

J U D G M E N T

The petitioners are the relatives of deceased Thanka, involved in Crime No.268 of 2011 of the Town South Police Station, Palakkad, which is presently pending as S.C.No.725 of 2012 of the Additional Sessions Court (Fast Track Court-III), Palakkad, for the offences including the offence under Section 302 IPC.

2. On the apprehension that a successful prosecution will not be carried out in the matter by the Prosecutor appointed by the Government, the petitioners had

approached the Government seeking permission to engage an Advocate of their choice as Special Prosecutor in the case. It seems that the Government has rejected the said application on 02.03.2015 as no special grounds are there for enabling the petitioners to get a Special Prosecutor appointed in the matter.

3. As rightly pointed out by the learned Government Pleader, the present apprehension put forwarded by the petitioners is clearly unfounded. They have no complaints that the present Public Prosecutor, who is conducting cases before the court below, is not capable of conducting the prosecutions properly. They have no case that the present Prosecutor has any enmity towards the petitioners or has any affinity towards the accused in the case. In case of any further grievance, it is open to the petitioners to approach the court below with an application under Section 301(2) Cr.P.C. read with Proviso to Section 24(8) Cr.P.C. to have an Advocate of their choice engaged, to assist the learned Public Prosecutor. In case of any further grievance in the matter, it is open to

them to once again approach this Court or the Government at appropriate stage.

With the said observations this Writ Petition (Civil) is closed.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/9/10/15

// True Copy //

P.A. To Judge