

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 31685 of 2013 (I)

PETITIONER:

NAZIM, AGED 40 YEARS,
S/O.ABDUL AZEEZ, KARIMBALAYIL HOUSE, AROOR,
PONGANDU, KILIMANOOR,
THIRUVANANTHAPURAM

BY ADV. SRI.SOJAN MICHEAL

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ADDITIONAL CHIEF SECRETARY,
HOME AND VIGILANCE, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001
2. MRS. MINIMOL,
W/O.SALIM MOHAMMED, ASST.MANAGER, SBT JAGATHY BRANCH,
POOJAPPURA, THIRUVANANTHAPURAM - 695 012
3. SASTHAMANGALAM AJITH KUMAR,
ADVOCATE, SPECIAL PUBLIC PROSECUTOR IN CC NO 241/2011
OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II
VARKALA, THIRUVANANTHAPURAM 695 012
4. ASSISTANT COMMISSIONER OF POLICE,
CRIME DETACHMENT, THIRUVANANTHAPURAM CITY,
JAGATHY, THIRUVANANTHAPURAM - 695 001

R1,R4 BY GOVERNMENT PLEADER SMT.P.MAYA
R3 BY ADV. SRI.V.S.THOSHIN
R2 BY ADV. SRI.K.GOPALAKRISHNA KURUP (SR.)
R2 BY ADV. SRI.V.K.BIJU
R2 BY ADV. SRI.ABHISHEK KURIAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 31685 of 2013 (I)

APPENDIX

PETITIONER'S ANNEXURES:

EXHIBIT P1: PHOTOCOPY OF THE VAKALATH FILED BY THE ACCUSED IN C.C NO 2 OF 2010 OF JFCM,ATTINGAL

EXHIBIT P2: PHOTOCOPY OF ORDER OF THIS HON'BLE COURT DTD 06-04-2012 IN CRIMINAL M.C NO 2 OF 2010

EXHIBIT P3: PHOTOCOPY OF COMMON ORDER OF THIS HON'BLE COURT DTD 02-09-2010 IN CRLMV NO 480/2010 AND CRL M.C NO 1786/2010

EXHIBIT P4: COPY OF THE REPLY NOTICE DATYED 16-01-2012

EXHIBIT P5: PHOTOCOPY OF THE ORDER NO G.O(RT) NO 1330/2012 HOME DATED 04-05-2012

EXHIBIT P6: COPY OF THE LETTER DATED 04-01-2013 ISSUED BY STATE PUBLIC INFORMATION OFFICER, HOME DEPARTMENT, THIRUVANANTHAPURAM.

EXHIBIT P7: PHOTOCOPY OF THE NOTICE DTD 08-10-2012 ISSUED BY ADV.SASTHAMANGALAM S. AJITHKUMAR (SPECIAL; PUBLIC PROSECUTOR) TO THE PETITIONER

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

W.P(C) No.31685 of 2013

Dated this the 6th day of February, 2015

J U D G M E N T

The petitioner herein challenges the appointment of a Special Public Prosecutor by the Government to conduct prosecution in C.C No.241/2011 of the Judicial First Class Magistrate Court, Varkala. The 3rd respondent herein is the Special Public Prosecutor appointed by the Government. The petitioner seeks a writ of certiorari quashing the order of appointment made by the Government.

2. I heard both sides. Now it is submitted by the other side that the trial procedure has already commenced, and that the 3rd respondent has already examined one of the witnesses. Anyway, appointment of Special Public Prosecutor is the prerogative of the Government in which this Court will interfere only in extreme circumstances of clear violation of any provision of law or procedure.

3. On a perusal of the writ petition I find that the petitioner does not have a definite case regarding such extreme

violation of any law or procedure. It is also not known how the petitioner will be prejudiced if the prosecution is conducted by the 3rd respondent. I find no reason to interfere in the orders passed by the Government, and I find no special or extraordinary circumstance warranting interference under Article 226 of the Constitution of India. Hence the Writ Petition is dismissed.

**P.UBAID
JUDGE**

ab