

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 29268 of 2014 (G)

PETITIONER(S):

1. JANARDHAN PAI K.V.,
S/O.K.N. VENKATESWARA PAI, K.N.G. TEXTILES,
GOPALA PRABHU ROAD, ERNAKULAM - 682 035.
2. S. RAMESH SHENOY, S/O. SREEDHARA SHENOY,
ULLISSERRI HOUSE, T.D. ROAD, ERNAKULAM.

**BY ADVS.SRI.A.G.ADITYA SHENOY
SRI.V.JOHN SEBASTIAN RALPH**

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM-01.
2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEARD QUARTERS, VAZHATAAUD,
TRIVANDRUM - 695 001.
3. THE INSPECTOR GENERAL OF POLICE,
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
CENTRAL RANGE, ERNAKULAM- 682 031.
4. THE SUPERINTENDENT OF POLICE,
STATE TEMPLE ANTI THEFT SQUAD (STATS),
OFFICE OF THE SUPERINTENDENT OF POLICE,
STATE TEMPLE ANTI THEFT SQUAD, TRIVANDRUM - 695 001.
5. THE DEPUTY SUPERINTENDENT OF POLICE,
(INVESTIGATING OFFICER)
STATE TEMPLE ANTI THEFT SQUAD (STATS),
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
TRIVANDRUM -695 001.
6. THE STATION HOUSE OFFICER,
CENTRAL POLICE STATION, ERNAKULAM - 682 031.

WP(C).No. 29268 of 2014 (G)

*ADDL. R7 IMPEADED

7. RANGADASA PRABHU, S/O.R.PPRABHU,
AGED 66 YEARS,MANAGING ADHIKARI, T.D.DEVASWOM,
RESIDING AT : SREERANGA NIVAS, T.D.WEST ROAD,
KOCHI - 35.

ADDL.R7 IMPEADED AS PER ORDER DATED 11.03.2015 IN IA 3459/15.

**ADDL. R8 IMPEADED

8. ERNAKULAM THIRUMALA DEVASWOM,
REPRESENTED BY ITS MANAGING ADHIKARIS
1.RANGADASA PRABHU,
2.K.J.RADHAKRISHNA KAMATH, T.D.ROAD, ERNAKULAM,
KOCHI - 682 035.

ADDL.R8 IMPEADED AS PER ORDER DATED 30.03.15 IN IA 4622/15.

***ADDL.R9 IMPEADED

9. N.K.PRABHAKARA NAIK,
S/O.THE LATE N.N.KRISHNA NAIK,
NEDUMPULLISSERY PARAMBIL,
GOPALA PRABHU ROAD, ERNAKULAM,
COCHIN - 682 035.

ADDL.R9 IMPEADED AS PER ORDER DATED 23.06.2015 IN IA 8578/15.

****ADDL.R10 IMPEADED

10.V.RAJKUMAR KAMATH, S/O.SHRI.A.VASUDEVA KAMATH,
40/7183, T.D.ROAD, ERNAKULAM, COCHIN - 682 035.

ADD. R10 IMPEADED AS PER ORDER DATED 4.9.2015 IN IA.11061/2015.

R1 TO R6 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
ADDL.DGP SRI.TOM JOSE PADINJAREKARA
ADDL.R7 & R8 BY ADVS. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
ADDL R9 BY ADV. SRI.O.V.MANIPRASAD
ADDL.R10 BY ADV. SRI.E.V.BABYCHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-09-2015 ALONG WITH WPC.25325/2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1- TRUE COPY OF THE FIRST INFORMATION REPORT NO. 2029/2013 DATED 05/10/2013 ON THE FILES OF THE CENTRAL POLICE STATION, ERNAKULAM.
- EXHIBIT-P2- TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE 3RD RESPONDENT DATED 05/10/2013.
- EXHIBIT-P3- TRUE COPY OF THE REVISED BUDGET OF THE ERNAKULAM TIRUMALA DEVASWOM TEMPLE DULY SIGNED AND SEALED BY THE 4TH RESPONDENT.
- EXHIBIT-P4- TRUE COPY OF THE REPORT BEARING NO. 161/2014 ISSUED BY THE OMBUDSMAN FOR COCHIN DEVASWOM BOARD DATED 29/10/2014.

RESPONDENT(S)' EXHIBITS & ANNEXURES:

- ANNEXURE R5(A) : TRUE COPY OF THE STATEMENT GIVEN BY MR.VARADARAJAN ON 10.2.2015.
- ANNEXURE R5(B) : TRUE COPY OF THE STATEMENT GIVEN BY MR.VARADARAJAN ON 19.5.2015.
- EXT. R7(A) : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE SWARNA PALLAKKU NIRMANA COMMITTEE BEFORE THE COMMISSIONER OF POLICE, KOCHI CITY DATED 5.10.2013 WITH ACKNOWLEDGMENT.
- EXT. R7(B) : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE DEVASWOM TO THE HON'BLE MINISTER FOR HOME AFFAIRS DATED 7.10.13.
- EXT. R7(C) : TRUE COPY OF THE AGREEMENT/UNDERTAKING DATED 21.1.2014.
- EXT. R7(D) : TRUE COPY OF THE REPRESENTATION DATED 28.2.2014 SUBMITTED BY THE DEVASWOM AND THE NIRMANA COMMITTEE BEFORE THE HON'BLE HOME MINISTER.
- EXT. R7(E) : TRUE COPY OF THE INTERIM REPORT OF THE HON'BLE OMBUDSMAN DATED 29.4.014.
- EXT. R7(F) : TRUE COPY OF THE ORDER DATED 6.5.2014 ISSUED BY THE COCHIN DEVASWOM BOARD.
- EXT. R7(G) : TRUE COPY OF THE REPORT DATED 23.6.2014 FILED BY THE ENQUIRY OFFICER.

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

.....
W.P.(C)Nos.29268 of 2014 & 25325 of 2015
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Dated this the 4th day of September, 2015

J U D G M E N T

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Read various orders passed by this Court.

2. The complaint is that even at present a proper investigation is not being continued.

3. Sri.Tom Jose Padinjarekkara, learned Additional Director General of Prosecutions, has filed a statement dated 01.09.2015 of Inspector General of Police(Crimes), Crime Branch Head Quarters, Thiruvananthapuram. As per the statement, it has been reported before this Court that specific guidelines have been formed for the continued investigation which are in the following lines:

“(a) The investigating officer is instructed to take steps to conduct Polygraph test and Narco Analysis test of A1 Varadarajan, A2

Muthu Kumar S/o.Varadarajan suspects Sanatana Pai and Chacko through concerned court.

(b) Collect the Bank account statements of Sanatana Pai, A1 Varadarajan and Chacko during the relevant period.

(c) Collect audit statements and Income Tax return statements of Sanatana Pai and Chacko.

(d) The details of vehicles owned by Sanatana Pai during the period of 1996 to 1998 and also collect the details of the Hundai Car which is mentioned in the confession of A1.

(e) Source of A1 Varadarajan for obtaining 14 sheets of brass mentioned in his confession statement used for the construction of the Swarna Pallakku instead of gold and also its connection with suspected Sanatana Pai.

(f) Question the Office Bearers, Accounts Officer, Sales Executive and goldsmith of Sanatana Pai during the relevant period and seize the gold stock register and account book of Sanatana Pai during the relevant period.

(g) Question Jewellery staff of Sanatana

Pai during the period of 1996-98.

(h) Record the further statement of Swarnapallakku Nirmana Committee, Adhikarees of Temple, petitioners in this writ petition WP(C) No.29268/2014.

(i) Question the night watchman of the temple during the relevant period.

(j) Any gold exhibition was conducted by Sanatana Pai during the period of 1996-98.

(k) Collect the call details of Sanatana Pai, Chacko, Varadarajan and Muthukumar during the period from 1996 onwards.

(l) Saravanakumar, employee of A1 Varadarajan and A1 Varadarajan to be questioned with regard to the source of brass used in the construction of golden Pallakku instead of gold.

(m) Shanmugham another employee of A1 Varadarajan of relevant period to be traced and to be questioned.

(n) Investigation to be conducted in order to find out the brass used for the construction of Swarna Pallakku and the brass used by Sanatana Pai in his shop during the relevant period from the same source.

(o) Seized the vouchers signed by A1 Varadarajan for the receipts of the craftsman charges of the construction of golden Pallakku.”

4. On going through the aforesaid guidelines formulated for the investigation, this Court is satisfied that the investigation based on the aforesaid guidelines is in the proper line. Let the matter be investigated. It is not easy to investigate such a complex matter. All the learned counsel for the other parties have pointed out that the investigating officer has not examined the Managing Adhikarees of the temple in the matter. Over and above the aforesaid guidelines, let them also be examined and interrogated. This Court expects that the present investigating team will continue with a proper investigation in the matter based on the aforesaid guidelines and by incorporating the Managing Adhikarees. In case of any other opinion from the part of the contesting parties, they can file appropriate representations before the Inspector General of Police,

Crimes, so that it will also be given due weight in the process of investigation.

By recording all these, these writ petitions are disposed of. In case of any further grievance after three months, the petitioners can again move this Court for appropriate directions.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/07/09

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PA to Judge