

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C) .No. 33877 of 2015 (H)

PETITIONER:

K.R BIJULAL, AGED 43 YEARS, S/O.C.N.KUTTAPPAN,
'SREELAKAM', OLATHANNI,
NEYYATTINKARA P.O.,
THIRUVANANTHAPURAM DISTRICT,
PIN-695 121.

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH
SMT.MEERA GOPINATH

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HOME AFFAIRS,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE ADDITIONAL DIRECTOR GENERAL POLICE,
(INTELLIGENCE AND RAILWAYS),
VELLAYAMBALAM, SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM-695 010.
3. THE SUPERINTENDENT OF POLICE,
RAILWAYS, THYCAUD,
THIRUVANANTHAPURAM-695014.
4. THE SUB INSPECTOR OF POLICE,
RAILWAYS, THAMPANOOR,
THIRUVANANTHAPURAM-695 036.

R1 TO R4 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

WP(C) .No. 33877 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE FIR IN CRIME NO.75/2014 OF RAILWAY POLICE STATION.

P2 COPY OF THE FINAL REPORT IN CRIME NO.75/2014 OF RAILWAY POLICE STATION.

P3 COPY OF THE ELECTION IDENTITY CARD OF THE PETITIONER.

P4 COPY OF THE AADHAR CARD OF THE PETITIONER.

P5 COPY OF THE RELEVANT EXTRACT OF THE ADVOCATES DIRECTORY ISSUED WITH THE TRIVANDRUM BAR ASSOCIATION.

P6 COPY OF THE REPRESENTATION DATED 28.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P7 COPY OF THE REPRESENTATION DATED 28.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P8 COPY OF THE REPRESENTATION DATED 28.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

RESPONDENTS' EXHIBITS:

NIL

// True Copy //

P.A. To Judge

DSV/25/11/15

B.KEMAL PASHA, J.

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W.P.(C).No.33877 of 2015

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Dated this the 24th day of November, 2015

J U D G M E N T

Heard the learned counsel for the petitioner and the learned State Attorney.

2. According to the learned counsel for the petitioner, the petitioner was not at all present at the scene of occurrence, at the time of the alleged incident involved in the case. At the same time, the learned State Attorney submits that the investigating officer was satisfied that the petitioner was present. It is a matter that has to be decided by the trial court. It seems that so far charges have not been framed in the matter.

2. The matters pointed out by the learned counsel for

the petitioner are matters that can be decided by the court below at the time of hearing on the question of framing charges. In case of a petition seeking discharge, the court below shall consider the same on merits at the stage of Sections 239 and 240 Cr.P.C. and pass appropriate orders. The court below shall not insist the personal presence of the petitioner till the stage of Section 239 Cr.P.C.

This Writ Petition (Civil) is disposed of accordingly.

Sd/-

**B. KEMAL PASHA
JUDGE**

DSV/24/11/15

// True Copy //

P.A. To Judge