



2025:KER:23084

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 18TH DAY OF MARCH 2025 / 27TH PHALGUNA, 1946

WP(CRL.) NO. 81 OF 2025

AGAINST C.C. NO.811 OF 2014 ON THE FILES OF THE JUDICIAL

FIRST CLASS MAGISTRATE COURT-I, NEDUMANGAD

PETITIONER:

**ANIL K EMMANUEL
AGED 45 YEARS
S/O.EMMANUEL VARGHESE,VELIYATH,
CHEERANCHIRA POST, CHANGANASSER,
KOTTAYAM DISTRICT, PIN - 686106**

**BY ADVS.
AJIT G ANJARLEKAR
G.P.SHINOD
GOVIND PADMANAABHAN
GAYATHRI S.B.
ATUL MATHEWS**

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANTHAPURAM DISTRICT, PIN - 695001**
- 2 THE PRINCIPAL SECRETARY
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,**



2025:KER:23084

W.P.(CRL) NO.81 OF 2025

2

THIRUVANANTHAPURAM DISTRICT, PIN - 695001

- 3 ADDITIONAL CHIEF SECRETARY
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM DISTRICT, PIN - 695001
- 4 THE SECRETARY
DEPARTMENT OF LAW, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM DISTRICT, PIN - 695001
- 5 THE DIRECTOR GENERAL OF PROSECUTION
DIRECTORATE OF PROSECUTION,
ERNAKULAM DISTRICT, PIN - 682018
- 6 THE STATE POLICE CHIEF
VAZHUTHAKADU, THIRUVANANTHAPURAM DISTRICT,
PIN - 695010
- 7 THE STATION HOUSE OFFICER
VANCHIYOOR POLICE STATION, VANCHIYOOR,
THIRUVANANTHAPURAM DISTRICT, PIN - 695035

BY ADV.

SRI. C.K.SURESH, SENIOR PUBLIC PROSECUTOR

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 18.03.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is a journalist by profession. He preferred Exts.P17 and P19 representations before the Government to appoint a Special Public Prosecutor to conduct the prosecution of C.C. No.811/2014 pending on the files of the Judicial First Class Magistrate Court-I, Nedumangad (for short 'the trial court'). According to the petitioner, the said case pertains to one affecting the administration of the criminal justice, is highly sensational and generates extensive public interest of such magnitude so as to necessitate the appointment of a more competent Advocate of good standing as a Special Public Prosecutor.

2. The respondents filed a detailed counter affidavit opposing the Writ Petition.

3. I have heard Sri. G. P. Shinod, the learned counsel for the petitioner and Sri. C. K. Suresh, the learned Public Prosecutor.



4. The 1st accused in C.C. No.811/2014 is the Thondy Section Clerk of the Judicial Second Class Magistrate Court-II, Thiruvananthapuram and the 2nd accused is the Advocate who appeared for the accused in S.C. No.147/1990. The offences alleged against them are punishable under Sections 120B, 420, 201, 193, 217 and 34 of the Indian Penal Code (IPC). The prosecution case in short is that, the 1st accused with intention to save the accused in S.C. No.147/1990 took the material object (underwear of the accused) involved in the said case which was kept in the safe custody of the court and gave to the 2nd accused who altered the same and kept back in the court.

5. The 2nd accused in C. C. No.811/2014 preferred Crl.M.C. No.5261/2022 and the 1st accused preferred Crl.M.C. No.7805/2022 to quash the final report in C. C. No.811/2014. These Crl.M.C.'s were allowed as per Ext.P12 common order. It was observed in that order that the competent authority or the court concerned are at liberty to pursue prosecution in compliance with the procedure contemplated under Section



195(1)(b) of the Cr.P.C. The said order was challenged by the 2nd accused before the Supreme Court. The Supreme Court as per Ext.P13 order set aside the order of this Court in CrI.M.C. No.5261/2022 and the order taking cognizance in Crime No. 215/1994 and all further proceedings pursuant to the same in C. C. No.811/2014 were restored on the files of the Judicial First Class Magistrate Court-I, Nedumangad. There was a specific direction to the learned Magistrate to conclude the trial within a period of one year.

6. The learned Public Prosecutor submitted that pursuant to the direction of the Supreme Court, the trial commenced on 07.02.2025 and PWs 1 to 5 were already examined. Altogether 29 witnesses were cited by the prosecution. According to the learned Public Prosecutor, the five witnesses examined are the key witnesses. The petitioner, who was well aware of Ext.P13 judgment of the Supreme Court and the direction therein to complete the trial within one year, filed the Writ Petition seeking appointment of Public Prosecutor only on 17.01.2025. That



apart, Ext.P15 guidelines of the Government of Kerala regarding the appointment of Special Public Prosecutor clearly says that the appointment of a Special Public Prosecutor shall be made only on being satisfied that the case cannot be adequately handled by any of the duly appointed Public Prosecutors. There is nothing on record to show that the present Public Prosecutor who conducts the prosecution cannot adequately handle the case. As stated already, the five key witnesses were already examined.

7. The learned counsel for the petitioner submitted that offence under Section 409 of IPC was also attracted against the accused and the failure on the part of the Public Prosecutor to file an application under Section 216 of Cr.P.C. for including the offence under Section 409 of IPC is suggestive of the fact that the Public Prosecutor cannot handle the case properly. I cannot subscribe to the said argument. If the Magistrate Court while receiving the final report and taking cognizance was of the view that Section 409 of IPC also was involved, ought to have returned the final report with a direction to conduct further investigation.



2025:KER:23084

W.P.(CRL) NO.81 OF 2025

7

The trial court before the commencement of the trial also was empowered to order further investigation, if Section 409 of IPC was involved. The Investigating Officer also is free at any stage to conduct further investigation, if such an offence is involved. In these circumstances, there is no merit in the argument that Section 409 of IPC was also involved and the Public Prosecutor failed to appraise the same before the Court. Considering the fact that there is nothing on record to show that the present Public Prosecutor cannot adequately handle the case, that trial has already been commenced and that there is a specific direction by the Supreme Court to complete the trial within one year, I am of the view that the request made by the petitioner for the appointment of a Special Public Prosecutor cannot be allowed. Accordingly, the Writ Petition is dismissed.

**Sd/-
DR. KAUSER EDAPPAGATH
JUDGE**

BR



2025:KER:23084

W.P.(CRL) NO.81 OF 2025

8

APPENDIX OF WP(CRL.) 81/2025

PETITIONER'S EXHIBITS

- Exhibit P1** **A TRUE COPY OF THE OFFICE MEMORANDUM DATED 27/09/1994 ISSUED BY THE ASSISTANT REGISTRAR, HIGH COURT OF KERALA VIDE NO: D2-8384/92**
- Exhibit P2** **A TRUE COPY OF THE FORWARDING LETTER DATED 01/07/1996 ISSUED BY THE DIRECTOR, FORENSIC SCIENCE LABORATORY, THIRUVANANTHAPURAM VIDE NO: B1-2590/FSL/94, ALONG WITH ENCLOSURE SENT TO THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM**
- Exhibit P3** **A TRUE COPY OF THE LETTER DATED 20/01/1996 ISSUED BY THE DETECTIVE SENIOR CONSTABLE TO THE AUSTRALIAN NATIONAL CENTRAL BUREAU, INTERPOL CANBERRA**
- Exhibit P4** **A TRUE COPY OF THE LETTER DATED 29/01/1996 ISSUED BY INTERPOL CANBERRA TO INTERPOL NEW DELHI**
- Exhibit P5** **A TRUE COPY OF THE FINAL REPORT DATED 16/08/2002 SUBMITTED BY THE ASSISTANT COMMISSIONER OF POLICE, CRIME DETACHMENT, THIRUVANANTHAPURAM CITY BEFORE THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM**
- Exhibit P6** **A TRUE COPY OF THE LETTER DATED 15/12/2005 ISSUED BY THE COMMISSIONER OF POLICE, THIRUVANANTHAPURAM CITY TO THE ASSISTANT COMMISSIONER OF POLICE, CRIME DETACHMENT, THIRUVANANTHAPURAM CITY**
- Exhibit P7** **A TRUE COPY OF THE APPLICATION DATED 16/12/2005 SUBMITTED BY THE ASSISTANT COMMISSIONER OF POLICE, CRIME DETACHMENT, THIRUVANANTHAPURAM CITY**



2025:KER:23084

W.P.(CRL) NO.81 OF 2025

9

**BEFORE THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, THIRUVANANTHAPURAM**

- Exhibit P8** **A TRUE COPY OF THE FINAL REPORT DATED
24/03/2006 IN CRIME NO: 215/1994 OF
VANCHIY00R POLICE STATION**
- Exhibit P9** **A TRUE COPY OF THE LETTER DATED
17/12/2013 ISSUED BY THE ADDITIONAL
CHIEF JUDICIAL MAGISTRATE,
THIRUVANANTHAPURAM TO THE CHIEF JUDICIAL
MAGISTRATE, THIRUVANANTHAPURAM**
- Exhibit P10** **A TRUE COPY OF THE PRINT OUT OF THE CASE
STATUS OF CC NO: 811/2014 PENDING BEFORE
THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-1, NEDUMANGAD**
- Exhibit P11** **A TRUE COPY OF THE PRINT OUT OF THE
FACEBOOK POST DATED 17/07/2022 OF THE
PETITIONER**
- Exhibit P12** **A TRUE COPY OF THE COMMON ORDER DATED
10/03/2023 OF THIS HONOURABLE COURT IN
CRIMINAL MC NO: 5261 OF 2022 AND
CRIMINAL MC NO: 7805 OF 2022**
- Exhibit P13** **A TRUE COPY OF THE COMMON JUDGMENT DATED
20/11/2024 OF THE HONOURABLE SUPREME
COURT IN SLP (CRIMINAL) NO: 4887 OF 2024
AND SLP (CRIMINAL) NO: 7896 OF 2023**
- Exhibit P14** **A TRUE COPY OF THE ORDER DATED
24/07/2023 IN CRIMINAL MP NO: 2778/2023
OF THE COURT OF THE JUDICIAL FIRST CLASS
MAGISTRATE-XI, THIRUVANANTHAPURAM**
- Exhibit P15** **A TRUE COPY OF THE CIRCULAR DATED
29/11/2014 ISSUED BY THE ADDITIONAL
CHIEF SECRETARY TO GOVERNMENT**
- Exhibit P16** **A TRUE COPY OF THE REPLY DATED
24/12/2024 ISSUED BY THE STATE PUBLIC
INFORMATION OFFICER, HOME DEPARTMENT**



2025:KER:23084

W.P.(CRL) NO.81 OF 2025

10

**Exhibit P17 A TRUE COPY OF THE REPRESENTATION DATED
17/12/2024 SUBMITTED BY THE PETITIONER
BEFORE THE ADDITIONAL CHIEF SECRETARY,
HOME DEPARTMENT (WITHOUT ANNEXURES)**

**Exhibit P18 A TRUE COPY OF THE REPRESENTATION
SUBMITTED BEFORE THE ADDITIONAL CHIEF
SECRETARY, HOME DEPARTMENT, ALONG WITH
BIODATA**

**Exhibit P19 A TRUE COPY OF THE REPRESENTATION DATED
03/01/2025 SUBMITTED BY THE PETITIONER
BEFORE THE ADDITIONAL CHIEF SECRETARY,
HOME DEPARTMENT (WITHOUT ANNEXURES)**

RESPONDENTS' EXHIBITS: NIL