

(2010) 11 KL CK 0278

In the High Court Of Kerala

Case No : Writ Petition (C) No. 35933 of 2004 (C)

C.V. Unni

APPELLANT

Vs

Director General of Police and Others

RESPONDENT

Date of Decision : 30-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 156

Citation : (2010) 11 KL CK 0278

Hon'ble Judges : Sasidharan Nambiar, J

Bench : Single Bench

Advocate : Babu Karukapadath, for the Appellant; S. Sreekumar, for the Respondent

Judgement

M. Sasidharan Nambiar, J.—This petition is filed under Article 226 of Constitution of India for a writ of mandamus directing third Respondent or any other superior police officer to investigate Exhibit P2 complaint forwarded to the Station House Officer, Ernakulam Town North Police Station by Judicial First Class Magistrate-I, Ernakulam and to recover bus KL-7/N 8433 and to direct first Respondent or any other police officer of similar rank to enquire into the complaint placed on record by the Petitioner through Exhibit P3.

2. Petitioner would contend that he, being a member of the Scheduled Caste, is the registered owner of bus KL-7/N 8433, operating on the route Kumbalangi South-Chittor Ferry and it was purchased from the seventh Respondent under an agreement and on 27.11.2004, Petitioner was summoned by Sub Inspector of Police, Cheranelloor and asked him to pay more amount to the seventh Respondent towards the value of the bus and when he refused to pay, Sub Inspector threatened him with dire consequences and on 1.12.2004 at about 7.45 a.m., seventh Respondent and his men trespassed into the bus, threatened the driver and committed theft of the vehicle near Vaduthala and when the matter was informed to Ernakulam North Police Station, they refused to register

the case and hence, on 2.12.2004, a complaint was filed before the Magistrate, which was sent for investigation u/s 156(3) of Code of Criminal Procedure. It is alleged that case is not being properly investigated and on 4.12.2004, Petitioner, along with one Wilson, met fourth Respondent at his office and then Petitioner was abused and threatened. Hence, he filed Exhibit P3 complaint. It is also not being enquired.

3. When the writ petition was admitted, this Court directed third Respondent, Commissioner of Police to seize the vehicle and keep it in police custody and also to make an enquiry on Exhibit P3 complaint and submit a report within two weeks. The vehicle was seized and by order dated 21.12.2004, this Court directed Commissioner of Police to produce the vehicle before the Magistrate directing the Magistrate to pass appropriate orders, for release of the vehicle. Commissioner of Police, thereafter, filed a report on 28.4.2004 stating that incident did not take place at Vaduthala but at Cheranelloor and the enquiry revealed that the incident alleged against the fourth Respondent is not correct and the dispute between the Petitioner and the fourth Respondent is of civil nature and therefore, a refer report has already been submitted before the Magistrate. Separate statement is also filed before this Court by the Commissioner in the writ petition.

4. In the light of the reports submitted by the Commissioner, as directed, based on the enquiry and also on the statement of the Commissioner that a refer report has already been submitted before the Magistrate, this petition is disposed granting liberty to the Petitioner to seek appropriate remedy, in accordance with law.