
(2022) 10 KL CK 0169
In the High Court Of Kerala
Case No : Writ Petition (C) No. 21065 Of 2022

Moideen Kutty

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 19-10-2022

Acts Referred:

Citation : (2022) 10 KL CK 0169

Hon'ble Judges : Anu Sivaraman, J

Bench : Single Bench

Advocate : M.Shajna, Mathew Kuriakose, T.K.Shajahan

Judgement

Anu Sivaraman, J.

1. This writ petition is filed seeking the following reliefs:-

“(i)To call for the records leading to Exhibit P4 and direct the respondents 1 to 3 to provide adequate and effective police protection to the life and property of the petitioner and his family members from the threat, abuse and trespassing of the respondents 4 and 5 and their men by issuing a Writ of mandamus or any other appropriate writ direction or order.

ii) To issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents 1 to 3 to consider and act on Exhibit P4 complaint forthwith and to provide adequate and effective police protection to life and property of the petitioner and his family.”

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned counsel appearing for the 4th respondent.

3. It is submitted by the learned counsel for the petitioner that the petitioner is residing with his wife and minor daughters in the address provided. It is submitted that respondents 4 and 5, who are neighbours of the petitioner, have been harassing the petitioner in an attempt to make him withdraw a case instituted under the Protection of Children from Sexual Offences Act against the

4th respondent for attempting to sexually assault the petitioner's daughter. It is submitted that even in spite of repeated complaints made by the petitioner before respondents 1 to 3, there is no proper action taken to provide protection.

4. A detailed counter affidavit has been placed on record by the 4th respondent. It is contended that the 4th respondent resides with his family consisting of his wife, sons and wife of the elder son in a house near the writ petitioner's residence. It is submitted that due to personal animosity, the writ petitioner has been preferring false complaints against the 4th respondent. The 5th respondent is the son of the 4th respondent and he is employed abroad and there is no cause of action as against him. It is submitted that even though the Vadakkumuri Muslim Mahallu Committee made several attempts to resolve the issues created by the petitioner, the petitioner did not respond and that a representation has been submitted by the Mahallu Committee before the police, which is produced as Exhibit R4(a). A mass representation submitted by the residents of the locality before the Vanitha Commission is also produced as Exhibit R4(b). It is submitted that there is also a crime registered against the petitioner as Crime No.911 of 2019 by the Thamarassery Police for trespassing into the 4th respondent's house and assaulting and outraging the modesty of his wife. It is contended that the crime registered against the 4th respondent is a false case foisted against him and that the 4th respondent was acquitted in S.C.No.923/2017 in Crime No.45/2017 by judgment dated 29.3.2021 of the Court of the Additional District and Sessions Judge, Kozhikode. It is submitted that there is no criminal case now pending against the 4th respondent and that the allegation in the writ petition that the 5th respondent attacked the petitioner is also denied. It is submitted that registration of a crime against the 5th respondent is without any basis or justification. It is further contended that the allegations raised in the writ petition are factually incorrect and that the attempt of the petitioner is only to see that the 5th respondent loses his employment abroad.

5. The learned Government Pleader submits, on instructions that there are criminal cases registered on the basis of the complaint submitted by the parties. It is further contended that on investigation, it appears that the allegations raised by the petitioner are not justified by facts and that they are made on the basis of personal animosity.

6. Having heard the learned counsel on either side and in view of the contentions raised, I am of the opinion that the specific prayers, as sought for by the petitioner, cannot be granted, since the respondents specifically allege that there is no threat or abuse to the petitioner by the contesting party respondents. This Court would not be justified in entering into any disputed questions of fact, since those would be beyond the scope of the writ petition. However, the police are duty bound to see that law and order is maintained and that there is no breach of peace at the instance of the petitioner or the contesting respondents, as the case may be. In case any complaint alleging commission of any criminal acts is received either from the petitioner or from the contesting respondents, the same

shall be appropriately dealt with and proper action to see that law and order is maintained shall be taken by the police.