
(2014) 11 KL CK 0055
In the High Court Of Kerala
Case No : WP (C). No. 13421 of 2013 (C)

R.M. Muraleedharan

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 308, 324, 325, 326

Citation : (2014) 11 KL CK 0055

Hon'ble Judges : A.K. Jayasankaran Nambiar, J

Bench : Single Bench

Advocate : Joe Kalliath, Spl. Government Pleader, P. Vijaya Bhanu, Senior Advocate, M.H. Hanis, Shaijan C. George, S. Rekha Kumari, M.T. Ajith, Sajitha George, A. Mohammed, Advocates and S. Karthika, Amicus Curiae, Advocate for the Respondent

Judgement

A.K. Jayasankaran Nambiar, J.—The petitioner is an employee of the Tranvancore Devaswom Board discharging the duties of a "Kazhakam" in Changamkari temple. He approached this Court through the present writ petition seeking a direction to the official respondents to take disciplinary proceedings against certain police officers, in particular the 3rd respondent, and also for a direction to the 2nd respondent to initiate criminal proceedings against the said police officers, based on the report submitted by the 5th respondent.

2. The brief facts necessary for a disposal of the writ petition are as follows:--

"The petitioner had a case that he had been falsely implicated in Crime No. 44/2003 before the Muhama police station and Crime No. 313/2003 before the Mararikulam police station. In connection with the said allegations he approached this Court through W.P.(C). No. 8482 of 2011 seeking a CBI investigation against certain police officers in connection with the false cases said to have been registered against him. This writ petition was disposed, denying the petitioner the prayer for a CBI investigation. In W.A. No. 596 of 2011, that was preferred by the petitioner against the said judgment, a Division Bench of this Court by its

judgment dated 25.07.2011 allowed the writ appeal preferred by the petitioner with certain directions. The Division Bench called for the report of the Inspector General of Police with regard to the allegations that were made by the petitioner in the appeal. The Inspector General of Police then submitted a report indicating that in Crime No. 255/2004, the charge against the petitioner should have been under Section 324, 325 and 326 IPC and not under Section 308 IPC as indicated in the charge sheet. It was also suggested that the punishment already suffered by the petitioner, of one month imprisonment in the Sub Jail as an under trial prisoner, and one month at the Central Jail after conviction in Sessions Case No. 31 of 2006, was sufficient for the offence committed by the petitioner in Crime No. 255 of 2004 which, according to the Inspector General of Police, should not have been registered under 308 IPC by the Sub Inspector of Mararikulam police station. Taking note of the report of the Inspector General of Police, the Division Bench disposed the appeal by quashing the Sessions Case and directing the employer of the petitioner to reinstate him in service with all consequential benefits. As regards the action to be pursued against the police officers who were responsible for charging the petitioner with the offence under Section 308 of the IPC, in lieu of Sections 324, 325 and 326 IPC as suggested by the Inspector General of Police, the Division Bench took note of the submission of the learned Government Pleader that among the police personnel that were pointed out by the appellant, one person had since died, two of them had retired from service and there was only one person namely, the 3rd respondent, who was still in service. This Court therefore directed the police authorities to initiate action against the 3rd respondent who was in service. There was a specific direction to complete the enquiry against the 3rd respondent and take appropriate action in the matter. The Inspector General was also directed to file a report regarding the action taken before the Division Bench within a period of three months from the date of the judgment. It would appear that, pursuant to the directions of this Court in the judgment dated 25.07.2011 in W.A. No. 596 of 2011, the Inspector General of Police submitted the enquiry report, that was drawn up pursuant to disciplinary proceedings initiated against the 3rd respondent before this court. Taking the report on file, the writ appeal was closed by judgment dated 11.11.2013."

3. The facts in the instant case would further reveal that, pursuant to the enquiry report, the matter was placed before the disciplinary authority who, by an order dated 26.06.2012, accepted the report of the enquiry officer and exonerated the 3rd respondent of the charges alleged against him in the memo of charges issued to him. It is in the back drop of the above facts that I have to consider the prayers in the present writ petition.

4. Counter affidavits have been filed on behalf of respondents 1, 2, 3, 5, 6 and 8. In the counter affidavit filed on behalf of the State Government as also respondents 2, 5 and 8, the sequence of events leading to the initiation of disciplinary proceedings against the 3rd respondent, as also the findings in the enquiry report and the consequential order passed by the disciplinary authority

are narrated. In particular, it is pointed out that the 3rd respondent was only entrusted with the task of filing the final report before the CrI. Court in Crime.No.255 of 2004 and hence he could not be seen as a person who was responsible for acting against the interest of the petitioner while drawing up the charges that were eventually filed against the petitioner in that case. It is pointed out that the case against the petitioner was initially registered by K. Vijayan, who was the Assistant Sub Inspector of Police and the investigation was conducted by the 6th respondent who retired on 30.11.2004. It is also pointed out that the 3rd respondent was then undergoing a period of training. These facts are brought out in the counter affidavits only to show that the other persons, against whom allegations were raised by the petitioner, had since retired from service and the 3rd respondent, who was the only one left in service, was not a person who was in any way responsible for the drawing up of erroneous charges against the petitioner. The counter affidavits filed on behalf of the 3rd respondent and the 6th respondent also to the same line.

5. I have heard the petitioner, who appears in person, as well as Sri. Joe Kalliath, the learned Special Government Pleader appearing on behalf of the official respondents, Sri. P. Vijayabhanu, the learned Senior counsel appearing on behalf of the 3rd respondent, Sri. Shaijan C. George, the learned counsel appearing on behalf of the 6th respondent and Smt. S. Karthika, Amicus Curiae appointed by this Court.

6. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I note that although, initially, the petitioner had a grievance with regard to his alleged illegal incarceration, consequent to Crime No. 255 of 2004 registered against him, the judgment dated 25.07.2011 of this Court in W.A. No. 596 of 2011 directed the quashing of the Sessions Case No. 31 of 2006 before the Assistant District Sessions Judge, Alappuzha and as a consequence of that the petitioner was directed to be reinstated in service with all consequential benefits. Thus, as a consequence of the judgment of this Court in W.A. No. 596 of 2011, the petitioner obtained the service benefits that he would have obtained had he continued in service without the break consequent to his incarceration. That apart, the Sessions case in which he was an accused, was quashed thereby absolving him from the charges under Section 308 of the IPC. The direction in the said judgment, therefore, had the effect of adequately compensating the petitioner for the inconvenience that was faced by him, pursuant to the registering of Crime No. 255 of 2004 against him. The relief sought for by the petitioner in the writ petition was confined to the initiation of disciplinary proceedings against such of those officers who, according to the petitioner, were responsible for the predicament that he faced. Pursuant to the judgment of this Court in W.A. No. 596 of 2011, an enquiry was conducted against the 3rd respondent who was the only police officer, among those against whom allegations were raised by the petitioner, who was continuing in service. That enquiry led to a report that found the 3rd respondent innocent of the charges levelled against him. The findings in the enquiry report were accepted by

the disciplinary authority as well. In that view of the matter, I do not think there is any point in keeping this writ petition alive because, the reliefs sought for by the petitioner have been virtually granted to him through the directions issued by this Court from time to time. Further, I do not see any reason to doubt the bona fides of the official respondents in the matter of disciplinary proceedings initiated and completed against the 3rd respondent.

Resultantly, the writ petition fails and is accordingly dismissed. No costs.