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**(2020) 12 KL CK 0134**

**In the High Court Of Kerala**

**Case No :** Writ Petition (Civil) No. 21419 Of 2020 (B)

Thomas Cherian

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

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**Date of Decision :** 08-12-2020

**Acts Referred:**

Indian Penal Code, 1860 — Section 34, 120B, 406, 465, 467, 468, 471  
Constitution Of India, 1950 — Article 226

**Citation :** (2020) 12 KL CK 0134

**Hon'ble Judges :** V.G. Arun, J

**Bench :** Single Bench

**Advocate :** Vijai Mathews, Joseph Thekkekuruvanal, C.S. Hrithwik

**Final Decision :** Dismissed

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## **Judgement**

1. Petitioner claims to be the Director of a Company by name Roshini Seafoods Pvt.Ltd. He is arrayed as the first accused in Crime No.1785 of 2015

registered at the Kottayam West Police Station for offences punishable under Sections 120B, 406, 465, 467, 468, 471 r/w 34 of IPC. The crime is

registered on the basis of a complaint filed by one Beena Radhakrishnan, wife of late P.G.Radhakrishnan, who was the Managing Director of Roshini

Seafoods Ltd. The allegation in the complaint is to the effect that the petitioner, who was the financial advisor and farm organiser of the Company,

assumed the role of Managing Director after the death of de-facto complainant's husband and hatched a conspiracy with the other Directors, forged

the signature of the complainant, created false documents and misappropriated huge amounts, between the period 11.02.1991 to 30.11.2015. After

registration of the crime, the de facto complainant filed W.P.(C) No.17170 of 2018 alleging that proper investigation was not being conducted. The

investigating officer filed a statement pointing out that the circumstances of the case and the value of the property involved, which is above 500

Crores, called for a full fledged investigation spread across different districts. Hence, the writ petition was disposed directing the investigation to be

entrusted with the State Crime Branch.

2. The petitioner contends that investigation in the crime is centred around sale of the Company's properties at Payyannur, having an extent of 78.160

acres. According to the petitioner, the properties were sold in the year 2008 at the then prevailing market value, as per the decision of the Director

Board of Company. After Crime Branch took over the investigation, petitioner and his family members are being frequently summoned for

questioning. According to the petitioner, the investigating officer is unduly influenced by the statement of the investigating officer, extracted in Ext.P2

judgment, of the properties being worth more than 500 Crores. Hence, the petitioner submitted Ext.P4 representation pointing out mismatch between

the actual value of the properties and the valuation in the statement relied on in Ext.P2 judgment. The petitioner therefore requested the investigating

officer to value the property before proceeding with the investigation. The prayer in this writ petition is for a direction to respondents 2 and 3 to get the

actual market value of the lands, buildings and equipment sold by Roshini Seafoods Ltd, as on the date of sale and as on today, assessed by a State or

Central approved valuer, before submission of final report in Crime No.1785 of 2015.

3. In the written statement filed by the investigating officer, it is stated that late P.G.Radhakrishnan, along with the de facto complainant and one

M.C.Joseph, had established Roshini Seafoods Pvt.Ltd, with the objective of conducting aquaculture, farming and allied activities. The petitioner being

the financial advisor and farm organiser was nominated as a Director. Later, Roshini Seafoods Pvt.Ltd was converted as a Public Ltd Company.

P.G.Radhakrishnan had bought 90 Acres of land in the name of Roshini Seafoods Pvt. Ltd by selling his properties at Kainadi in Alappuzha and

Malampuzha in Palakkad District and had taken a loan of Rs.25 lakhs from the Lord Krishna Bank by pledging his landed properties at Kottayam.

While so, petitioner resigned from the Director Board of the Company on 26.06.1995, when allegations of misappropriation and fraud were raised

against him. The activities of the Company did not progress in the manner expected resulting the Company being huge financial debt. The situation

worsened when P.G.Radhakrishnan, the Managing Director, died on 16.02.1998. Utilising this difficult situation faced by the family of the deceased,

petitioner assumed the role of the Director in the year 2008 and thereafter, sold 68 Acres of the Company's land to his daughter and other relatives.

The petitioner is also alleged to have transferred shares belonging to late P.G.Radhakrishnan fraudulently, without consent of his legal heirs.

According to the investigating officer, a comprehensive investigation on the transactions pertaining to the land, buildings and shares is essential. The

investigation is progressing in a proper manner and the petitioner cannot be permitted to meddle with the investigation.

4. The manner in which investigation in a criminal case is to be conducted is the absolute prerogative of the investigating officer and the scope of

interference, in exercise of the jurisdiction under Article 226, is very limited. No interference is warranted unless patent and glaring illegalities are

committed by the investigating officer. I am satisfied that the investigation in the case at hand is being conducted in a proper manner and hence, the

relief sought is liable to be declined.

In the result, the writ petition is dismissed.