

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR
&
THE HONOURABLE MRS. JUSTICE C.S. SUDHA

Monday, the 14th day of October 2024 / 22nd Aswina, 1946
WP(C) NO. 31639 OF 2024

PETITIONER:

JOSEPH.M.PUTHUSSERRY, S/O LATE T.A.MAMMEN, AGED 65 YEARS
THEKKENATTIL PUTHEN
VEETIL, POSTPUTHUSSERRY, THIRUVALLA, PATHANAMTHITTA DISTRICT, KERALA,
PIN - 689602

RESPONDENTS:

1. STATE OF KERALA, REP. ADDITIONAL CHIEF SECRETARY TO HOME,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001
2. STATE POLICE CHIEF, REP. BY STATE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI, PIN-682031
3. STATION HOUSE OFFICER, MUSEUM POLICE
STATION, THIRUVANANTHAPURAM, PIN-695033

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to an interim order may be issued directing the 3rd respondent to take appropriate action on Ext.P-1 complaint and conduct investigation into the findings of the committee headed by Justice K.Hema against culprits in accordance with law.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 03.10.2024 and upon hearing the arguments of M/S T.ASAFALI & LALIZA.T.Y. Advocates for the petitioner, GOVERNMENT PLEADER, SRI.K.GOPALAKRISHNA KURUP, (ADVOCATE GENERAL) & SHRI.V.MANU (SENIOR G.P) for R1 to R3, the court passed the following:

DR. A.K.JAYASANKARAN NAMBIAR, J.
&
C.S. SUDHA, J.

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of 2024, 32634 of 2024 and W.A.No.1248 of 2024**

Dated this the 14th day of October, 2024

O R D E R

C.S.Sudha, J.

As per order dated 03/10/2024, the petitioners and respondents were directed to file their responses to the counter affidavit filed on behalf of the 1st respondent. Some of them are yet to file their responses. The learned Advocate General submits that a comprehensive reply would be filed by the 1st respondent on receipt of copy of the responses of the other respondents. Any respondent who has not filed their response, shall do it within two days. The 1st respondent shall thereafter file their reply within a week.

2. We have gone through the entire Justice Hema Committee report including the redacted portion. We find that the

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statement of many witnesses recorded by the Committee reveal commission of cognizable offences. Hence, as directed in Order dated 10/09/2024, the statements given before the Committee shall be treated as '*information*' as contemplated under Sec. 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the SIT shall take necessary action as contemplated therein subject to Sec.173(3) BNSS.

3. The SIT shall take all precautions to see that the name of the victim/ survivor is not revealed or made public. The name of the victim/ survivor shall be masked in the FIS/FIR. The SIT shall ensure that the copy of the FIS is not uploaded or made public. The copy of the same shall not be issued to any person except to the victim/survivor (Sec.173(2) BNSS). The accused shall be entitled to same only on filing of the final report.

4. The SIT shall proceed with the investigation as per the relevant provisions of law and on completing the investigation, the

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investigating officer will decide whether any materials are made out for filing a final report (Sec.193 BNSS), and if so, proceed accordingly. If not, the investigating officer shall file a refer report.

5. The SIT in its action taken report dated 28/09/2024 has stated that none of the witnesses who have given statement before the Committee are ready to co-operate and give statement to the police. We reiterate that there cannot be any compulsion of the witnesses to give statement. The SIT on registration of a crime, shall take necessary steps to contact the victims/survivors and record their statements. In case the witnesses do not cooperate, and there are no materials to proceed with the case, appropriate steps as contemplated under Sec.176 BNSS shall be taken.


6. We also note that the report of the Committee refers to the rampant use of alcohol/drugs in the film shooting sets and other connected workplaces. The SIT shall conduct investigation into the same and take necessary action as contemplated under law.

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Necessary steps as and when required shall be taken in future also to prevent such rampant use of alcohol/drugs at shooting locations and other connected work sites, which use are in violation of the relevant provisions of law.

Post on 28/10/2024.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
C.S.SUDHA
JUDGE

ami/

APPENDIX OF WP(C) 31639/2024

Exhibit P1

TRUE COPY OF THE COMPLAINT DT.30.8.2024 MADE TO 3RD RESPONDENT.

