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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY,THE 6TH DAY OF NOVEMBER 2025/15TH KARTHIKA, 1947

WA NO. 2557 OF 2025

CRIME NO.407/2019 OF Tirur Police Station, Malappuram

AGAINST THE ORDER/JUDGMENT DATED 29.09.2025 IN WP(Crl.) NO.1299 OF 2025 OF HIGH COURT OF KERALA

APPELLANT:

SHAREENA, AGED 28 YEARS, D/O SIDIQUE,
PANAKKATTIL HOUSE, MUTHOOR, TIRUR, MALAPPURAM DISTRICT, PIN - 676101

BY ADVS.
SHRI.ABDUL KHADER KUNJU S.
SHRI.A AL FAYAD

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031

2 STATION HOUSE OFFICER
TIRUR POLICE STATION,
MALAPPURAM DISTRICT, PIN - 676101

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3 BASHEER, AGED 36 YEARS
S/O KUNJEEN, KATTIKULANGARA HOUSE,MUTHOOR,
TIRUR, MALAPPURAM DISTRICT, PIN - 676101

4 MUHAMMED IRSHAD @ HARSHAD
AGED 36 YEARS
S/O HAMSA, OLIYIL HOUSE MUTHOOR, TIRUR,
MALAPPURAM DISTRICT, PIN - 676101

5 SAFAR BABU, AGED 45 YEARS
S/O MUMMAD KUTTY MYLAADIKUNNATHU HOUSE NEAR
WATER TANK MUTHUR, TIRUR PO, MALAPPURAM, PIN -
676101

6 SHAHUL HAMEED, AGED 48 YEARS
S/O SAIDALAVI, THOTTIYIL HOUSE NEAR WATER TANK,
MUTHUR, TIRUR PO, MALAPPURAM, PIN - 676101

7 ISMAYIL, AGED 58 YEARS
S/O SAIDALAVI, THOTTIYIL HOUSE NEAR WATER TANK
MUTHUR, TIRUR PO, MALAPPURAM, PIN - 676101

8 YAHU, AGED 55 YEARS
S/O SAIDALAVI, THOTTIYIL HOUSE NEAR WATER TANK
MUTHUR, TIRUR PO, MALAPPURAM, PIN - 676101

BY SRI. K.A. ANAS, GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06.11.2025,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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J U D G M E N T

Jobin Sebastian, J.

This writ appeal has been directed against the judgment dated 29.09.2025 in WP(Crl.) No.1299/2025 of a learned Single Judge, whereby the writ petition was dismissed.

2. The said writ petition was filed seeking a direction to conduct further investigation in crime No.407/2019 of Tirur Police Station registered alleging commission of offences punishable under Sections 143, 147, 148, 341, 326 and 307 r/w 149 IPC. The said case is presently pending as S.C. No.777/2020 on the file of the Additional Sessions Court, Tirur, and the writ petitioner is the legal heir of the victim/injured in the said case.

3. We have heard both sides in detail and perused the available records.

4. According to the appellant, the investigation in crime No.407/2019, was conducted in a perfunctory and improper manner, culminating in the filing of a final report which exonerated some of the real culprits who had actively participated in the commission of the offence. It is further contended that the final report, absolving some of the principal assailants, was filed owing to the fundamentally flawed investigation undertaken by the

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Police. The appellant also pointed out that even though in the First Information Report, the names of respondents 5 to 8 in this writ appeal were arrayed as accused Nos.3 to 6, their names were omitted from the array of the accused in the final report without any justifiable reason. Furthermore, it was contended that the Police failed to investigate the role of one Aarif, who is the son born in the first marriage of the injured, in the commission of the offence, despite the appellant having specifically brought this matter to the attention of the Police. On these premises, it was urged that the order of the learned single Judge dismissing the writ petition seeking further investigation is liable to be interfered with.

5. Before considering whether any interference is warranted with the impugned order, it is necessary to bear in mind that the matter pertains to an incident of the year 2019. From the rival contentions advanced, it is evident that the investigation in the case has been completed, and the case is now ripe for trial. The main grievance of the appellant, who is the daughter of the injured in the said case, is that, though the First Information Statement was given narrating the true facts of the incident and naming the assailants who were previously known to the injured, some of those assailants were exonerated by the Police, and were omitted from the array of the accused in the final report. It is also contended that the role of one Aarif, who actively took part in the

commission of the offence, though not mentioned in the FIR, was not properly investigated by the Police and filed the final report in such a manner so as to facilitate the actual assailants to escape from the clutches of law. While considering the said grievance, it is pertinent to note that the case is presently at the stage of trial. During the course of the trial, the appellant, being a witness, will certainly have an opportunity to adduce evidence regarding all the persons who, according to her, participated in the commission of the offence. If such evidence is brought on record and the trial court is satisfied that any person, other than those already arrayed as accused, has also taken part in the commission of the offence, the court is well empowered under law to proceed against such persons in accordance with Section 358 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). In such circumstances, a direction for further investigation is not at all warranted in the instant case.

6. Before parting with this case, we take note of the fact that the investigating authorities had not issued any notice to the defacto complainant or his legal heirs, intimating them of the fact of removal of an accused, who was named in the FIR, from the list of accused in the final report. Although not applicable in the instant case, we are of the view that such inaction on the part of the investigating authorities would cause prejudice to the defacto complainant since he would lose an opportunity to take remedial

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action against the removal of an accused who was named in the FIR. We therefore, direct the State Police Chief to issue necessary instructions to the investigating authorities to promptly issue notices to the defacto complainants or their legal heirs whenever a person named as an accused in the FIR is removed from the list of accused during the course of an investigation.

7. In the light of the above discussion, we find no reason to interfere with the impugned judgment of the learned Single Judge. The writ appeal is devoid of merit and is accordingly dismissed.

The Registry of this Court is directed to send a copy of this judgment to the Secretary (Home Department), Secretariat, Thiruvananthapuram, for onward transmission to the State Police Chief.

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

Sd/-
JOBIN SEBASTIAN
JUDGE

ncd