

**Thushara Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1164840](http://sooperkanoon.com/1164840)

**Court :** Kerala

**Decided On :** Sep-19-2014

**Judge :** Honourable Mr. Justice a.Muhammed Mustaque

**Appellant :** Thushara

**Respondent :** State of Kerala

**Advocate for Pet/Ap. :** Sri. Ravikumar

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN FRIDAY, THE19H DAY OF SEPTEMBER201428TH BHADRA, 1936 WP(C).No. 19008 of 2014 (A)

----- PETITIONER(S): ----- THUSHARA, AGED29YEARS, S/O. SHIBU, MATTEL HOUSE, PANAVALLY CHERTHALA TALUK, ALAPPUZHA DISTRICT, NOW RESIDING AT THUNDIPARAMBIL, PALLURUTHY, KOCHI. BY ADV. SRI.C.P.RAVIKUMAR RESPONDENT(S): ----- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, HOME DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. THE STATE POLICE CHIEF, THIRUVANANTHAPURAM - 695 001.

3. THE DISTRICT POLICE CHIEF, ALAPPUZHA - 688 001.

4. THE STATION HOUSE OFFICER, POOCHAKKAL POLICE STATION, ALAPPUZHA - 688 526.

5. SHIBU, AGED 38 YEARS, S/O. BHASKARAN, MATTEL HOUSE, PANAVALLY, CHERTHALA TALUK, ALAPPUZHA DISTRICT - 688 524.

6. RADHA, AGED 60 YEARS, W/O. BHASKARAN, MATTEL HOUSE, PANAVALLY CHERTHALA TALUK, ALAPPUZHA DISTRICT - 688 524.

7. GEETHA, AGED 40 YEARS W/O. SASI, MATTEL HOUSE, PANAVALLY, CHERTHALA TALUK, ALAPPUZHA DISTRICT - 688 524.

8. SHYAMKUMAR, AGED 29 YEARS S/O. SASI, MATTEL HOUSE, PANAVALLY CHERTHALA TALUK, ALAPPUZHA DISTRICT - 688 524. R1-4 BY GOVERNMENT PLEADER SRI.DHANESH MATHEW MANJOORAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/09-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: PJ WP(C).No. 19008 of 2014 (A) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT-P1- TRUE COPY OF THE OP REGISTRATION CARD ISSUED BY THE TALUK HEAD QUARTERS HOSPITAL, CHERTHALA. EXHIBIT-P2- TRUE COPY OF THE FIR IN CRIME NO. 579/2014 OF POOCHAKAL POLICE STATION. EXHIBIT-P3- TRUE COPY OF THE COMPLAINT DATED 07/06/2014 SUBMITTED BEFORE THE VANITHA CELL, ALAPPUZHA. EXHIBIT-P3(A)-TRUE COPY OF THE RECEIPT ACKNOWLEDGING RECEIPT OF EXHIBIT-P3. EXHIBIT-P4- TRUE COPY OF THE RECEIPT ACKNOWLEDGING RECEIPT OF THE SAID PETITION ISSUED BY THE OFFICE OF THE 3D RESPONDENT. RESPONDENT(S)' EXHIBITS ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ V.K.MOHANAN, J ===== W.P.(C) No.19008 of 2014 ===== Dated this the 19th day of September, 2014

#### JUDGMENT

Petitioner is the de facto complainant in Crime No. 579/2014 of Poochakal Police Station, which is registered for the offences punishable under Sections 98A, 323, 324 and 34 of Indian Penal Code and Section 23 of the Juvenile Justice Act 1986.

2. Grievance of the petitioner is that though the above crime was registered as early as on 14.06.2014, no effective steps have been taken by the investigating officer to conduct proper investigation in the above crime and according to the petitioner, one of the relatives of the 1st accused is holding a higher post in the police department and therefore, at his instance the investigation is being paralyzed. Therefore, the present writ petition is filed with the following prayers: i) Issue a writ of mandamus or other appropriate writ or order directing respondents 1 to 4 to conduct effective investigation on Exts.P2, P3 and P4 within a time frame as may be fixed by this Hon'ble Court. ii) Grant such other reliefs as this Hon'ble Court may deem fit in the interest of justice. W.P.(C) No.19008 of 2014 2 3. Heard Adv.Sri. Ravikumar, learned counsel for the petitioner, and the learned Public Prosecutor.

4. The learned counsel for the petitioner strenuously submitted that even though the crime was registered on 14.06.2014, none of the accused was arrested and the 4th respondent is under the influence of a relative of the 1st accused in the above crime, who is holding a higher post in the police department.

5. Whereas the learned Public Prosecutor, on instructions, submitted that accused Nos.1 to 3 were already arrested and about 14 witnesses have been questioned. Thus, according to the Public Prosecutor, the investigation is in progress.

6. I have carefully considered the submissions made by the learned counsel for the petitioner as well as the learned Public Prosecutor. In the light of the submissions made by the learned Public Prosecutor, it can be seen that the investigation is going on smoothly and accused Nos.1 to 3, as per his submission, have already been arrested. It is also found that the present investigating officer has questioned 14 witnesses. However, the W.P.(C) No.19008 of 2014 3 investigation in the above crime is not up to the expected standard though the crime was registered on 14.06.2014. So, the apprehension of the petitioner that the investigating officer being influenced by the relative of the 1st accused cannot be said baseless. So, according to me, it is only just and proper to direct the Circle Inspector of Police, Poochakal Police Station to oversee the investigation undertaken by the Station House Officer of Poochakal Police Station in the above

crime. In the result, this Writ Petition is disposed of directing the 4th respondent to expedite the investigation and the Circle Inspector of Police, Poochakal Police Station is directed to see that an effective investigation is conducted by the 4th respondent, the Station House Officer, Poochakal Police Station, and he shall file a report as expeditiously as possible. Writ petition is disposed of accordingly. Sd/- V.K.MOHANAN, JUDGE vdv //True Copy// P.A to judge

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