

Gracy vs State of Kerala

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Court : Kerala

Decided On : Jan-04-2023

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/42682/2022

Appellant : GRACY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
WEDNESDAY, THE 4TH DAY OF JANUARY 2023 / 14TH POUSHA,
1944 PETITIONERS :- 1 GRACY, AGED 55 YEARS W/O.ALEXANDER,
CHARUVILA, MELATHIL VEEDU, 2 ANI ALEX, AGED 35 YEARS
S/O.ALEXANDER, CHARUVILA, MELATHIL VEEDU, BY ADVS.
M.T.SURESHKUMAR R.RENJITH DARSAN SOMANATH MANJUSHA K
SREELAKSHMI SABU RESPONDENTS :-

1 STATE OF KERALA REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY, THE DEPARTMENT OF HOME SECRETARIAT,
THIRUVANANTHAPURAM-695 001. 2 STATE POLICE CHIEF POLICE

HEAD QUARTERS, VAZHUTHAKKAD, THIRUVANANTHAPURAM, PIN-695 014. 3 THE DISTRICT POLICE CHIEF OFFICE OF THE DISTRICT POLICE CHIEF, T.B. JUNCTION, KOTTARAKKARA, KOLLAM, PIN-691 506. 4 STATION HOUSE OFFICER KUNDARA POLICE STATION, N.H. 744, ELAMPALLOR, KUNDARA, KOLLAM, PIN-691 501. BY SRI.T.K.SHAJAHAN, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -: 2 :-

JUDGMENT

Dated this the 4th day of January, 2023 This writ petition is filed seeking the following reliefs :- (i) To issue a writ in the nature of mandamus commanding the respondents 2 to 4 to conduct a proper investigation without harassing the petitioners unnecessarily.

(ii) To issue a direction to the 3 rd respondent to conduct a proper enquiry regarding the allegations in Exhibit P1 complaint submitted by the petitioners.

2. Heard the learned counsel for the petitioners and the learned Government Pleader.

3. It is submitted by the learned counsel for the petitioners

that the respondents are harassing the petitioners and compelling the appearance of the petitioners before the police station repeatedly at odd hours. It is submitted that the notice issued to the petitioners requires their presence in the police station at 7 a.m. It is contended that the son of the elder sister of the 1 st petitioner is alleged to be involved in a criminal case and that he is stated to be absconding and that it is in this connection that the petitioners have been summoned.

4. The learned Government Pleader submits, on instructions, that there are two criminal cases registered against one Ratheesh who is closely related to the petitioners as Crime -: 3 :-

Nos.1979/2022 and 1990/2022 of the Kundara Police Station. It is submitted that the petitioners have been summoned only in connection with the investigation into the crime and on a suspicion that they are harbouring the accused. It is submitted that Exts.P2 and P3 notices had been subsequently corrected and the petitioners

were required to be present only at 11 a.m. The learned Government Pleader would submit that the petitioners will be summoned only in accordance with law and not at any odd hours. Having considered the contentions advanced and in view of the fact that the petitioners have been summoned only as witnesses in connection with criminal cases, I am of the opinion that there can be no interdiction against investigation into criminal cases. However, it is made clear that the petitioners shall be summoned only after issuance of due notices under Section 160 Cr.P.C. or Section 41A, as the case may be.

This writ petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE
Jvt/6.1.2023 -: 4 :- APPENDIX OF WP(C) 42682/2022 PETITIONER EXHIBITS
Exhibit P1 A TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER DISTRICT POLICE CHIEF, KOLLAM RURAL DATED 16-12-2022 ALONG WITH RECEIPT. Exhibit P2 TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 160 OF CR.P.C. TO THE 1ST PETITIONER DATED NIL. Exhibit P3 TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 160 OF CR.P.C. TO THE 2ND PETITIONER DATED NIL.

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