

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION,  
THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,  
Hon'ble Chairperson**

Dated this the 29<sup>th</sup> January, 2010.

H.R.M.P.No.365 Of 2010

Petitioner : Sunil,  
Kuruppumood M.C. Colony,  
Uliyakkovil cheri,  
Kollam East Village, Kollam.

Respondents : 1) Gopakumar, Sub Inspector of Police,  
Kollam East Police Station.  
2) Thankachan, Assistant Sub Inspector of Police,  
Kollam East Police Station.

**ORDER**

The complaint of the petitioner in the above HRMP is that the petitioner was taken into custody in connection with crime No.96/10 registered for various offences including section 452 IPC on the allegation that he was responsible for the assault on Vasantha. The petitioner was shown as first accused and one Francis as second accused and that after his arrest on 20-1-2010 he was produced before the Court on 21-1-2010. According to the petitioner, the defacto complainant Vasantha filed an affidavit before the Court through an advocate stating that she did not make any complaint against the petitioner Sunil and she was assaulted by one Prasanth and the Court released the petitioner on bail on account of his innocence.

It is further stated in the petition that Vasantha filed a petition before the Judicial First Class Magistrate - II, Kollam, against Prasanth u/s 323 and 341 IPC. According to the petitioner, action is to be initiated against the respondents (SI and

ASI of Police) for registering a false case against him and also for recording false statement.

I am afraid that the petition cannot be entertained as admittedly the matter relates to judicial proceedings. It is no doubt true that in the complaint it is stated that Vasantha, the defacto complainant in crime No.96/10, has filed an affidavit before the JFMC-II, Kollam, stating that the petitioner is not the person who assaulted her and that she has also filed a petition before the Court against Prasanth. This shows that after the registration of the crime the defacto-complainant gave a different version before the Court by filing an affidavit and also a private complaint before the Court against Prasanth.

In the above circumstances, this Commission has no jurisdiction to go into the question whether Vasantha gave a complaint against the petitioner or against Prasanth initially and later gave a complaint against Prasanth by going back from her original complaint before the Police since these facts will be decided only by the Court in the judicial proceedings pending before it as the Court is seized of the matter in view of the affidavit as well as by a private complaint.

Any matter which is under the purview of the judicial proceedings cannot be taken up by this Commission for passing any orders since the matter will be subjudiced and this Commission is specifically barred from taking action in the matter which are subjudiced as could be seen from clause 17 (h) of the Kerala State Human Rights Commission (Procedure) Regulations 2001.

The petition is accordingly closed.

Justice N. Dhinakar,  
Chairperson.