

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

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

Dated this the 14<sup>th</sup> November, 2007.

H.R.M.P.No.444/07

Petitioner : G.C.Sheela,  
Amarivila veetil,  
Sisilipuram.P.O,  
Venganoor  
Thiruvananthapuram.

Respondent :

**I N T E R I M O R D E R**

The petitioner is present and was also present on 29-10-2007.

On 29-10-2007 the following order was passed:

“The petitioner is present. The petitioner, C I of Police, Neyyattinkara, Sureshkumar who partly investigated crime No.269 of 2003 of Neyyattinkara police station, the Dy.S.P. (Narcotic Cell) P.S.John who later took up investigation in the above crime and Chitrangadan, the defacto complainant, in the said crime will be present on the next date of hearing at the Headquarters sitting for enquiry. Post the petition for hearing on 14-11-2007”.

In view of the above order the Registrar of this Commission with a covering letter dated 6-11-2007 sent summons to the addressees in the summons namely the above persons and the Director General of Police was requested to serve those summons on the addressees to ensure that they are present before the Commission at the Headquarters Sitting on 14-11-2007. He was also requested to forward the acknowledgement showing the service of the summons to the office by 12-11-2007.

On 12-11-2007 a letter was received from the DGP to this office and it is as follows:

“Sir,

Sub: HRC Petitions – HRMP 444/07 – serving of summons – Reg:

Ref: Your letter No.444/07/P1/HRC dtd 06-11-07.

Please refer to the letter cited.

The HRC petitions and summons has been forwarded to the Superintendent of Police, Thiruvananthapuram Rural and Addl. Director General of Police, Crimes for immediate service and to report directly to the Court”.

The above facts therefore show that the summonses were to be served on the addressees and acknowledgement to be produced before the Commission by 12-11-2007 but the acknowledgement is not produced till date. On the contrary, the letter of the DGP only indicates that summons were forwarded to the Superintendent of Police, Rural Thiruvananthapuram and Addl Director General of Police, Crimes for service and to report directly to the Commission.

Today when the matter was taken up neither the Addl. DGP nor the SP, Rural have appeared nor have they produced the acknowledgement indicating the service of the summons on the addressee. In view of the above I feel one more opportunity has to be given to the addressees mentioned above and the office is directed to send summons to be served on C I of Police, Neyyattinkara, Sureshmar who partly investigated crime No.269/03 of Neyyattinkara police station and the Dy.S.P. (Narcotic Cell), P.S.John who later took up investigation in the above crime as well as Chithrangadan to appear before the Headquarters sitting of the Commission on 30-11-2007 for enquiry and the said

summons will be served on the above parties by Superintendent of Police, Rural, Thiruvananthapuram who will then forward the acknowledgement of service of summons by 26-11-2007 to the Commission indicating the receipt of summons informing them that they have to be present before the Commission for enquiry without fail and that if they do not appear the matter will be decided ex-parte.

The petitioner who is present agrees to be present on 30-11-2007.

The petition is adjourned to 30-11-2007.

(Sd)  
Justice N.Dhinakar.  
Chairperson.

True copy

Registrar

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

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

Dated this the 30<sup>th</sup> November, 2007.

H.R.M.P.No.444/07

Petitioner : G.C.Sheela,  
Amarivila veetil,  
Sisilipuram.P.O,  
Venganoor  
Thiruvananthapuram.

Respondent :

**ORDER**

G.C.Sheela filed a complaint before this Commission and the same was numbered as HRMP.No.444 of 2007. Report was called for from the Superintendent of Police (Rural), Thiruvananthapuram on 8-2-2007. Later on being informed that the matter lies within the jurisdiction of Commissioner of Police, Thiruvananthapuram City, a report was called for from him on 26-3-2007 and thereafter the Commissioner of Police informed that the matter is being enquired by the Deputy Superintendent of Police (Dy.S.P.) Narcotic Cell, Thiruvananthapuram (Rural) and therefore report was called for from the office of the Superintendent of Police (Rural), Thiruvananthapuram.

Superintendent of Police, Rural (SP), Thiruvananthapuram therefore filed a report to the Commission stating that the matter was enquired by Dy.S.P. Narcotic Cell.

In the report of Dy.S.P. which was forwarded by the SP it is stated that on 24-6-2003 Balaramapuram Police on receiving an intimation that one Chithrangadan is admitted in the Medical College Hospital, Thiruvananthapuram due to assault, Prabhakaran, ASI of Balaramapuram Police Station, went to the hospital and recorded the

statement of Chithrangadan and he registered a case in crime No.269 of 2003 u/s 143, 147, 148, 324, 326 r/w 149 and 27 of the Arms Act against son of Vasanthi and other seven persons identifiable by sight. According to the report, on the direction of DIG, (vide No.B3/6295/03/TR dated 10-8-2003), the investigation was conducted by Tomy Sebastian, Circle Inspector of Police, Neyyattinkara after intimating the Judicial Magistrate of the First Class III, Neyyattinkara. In the report it is stated that on 19-7-2004 C.G.Sureshkumar took charge as the Circle Inspector (C.I.) of Police, Neyyattinkara and questioned the witnesses including Chithrangadan but he could not fix the identity as no witness gave the names of any of the accused.

According to the report, thereafter the investigation was entrusted to R.Gopinathan Nair, Dy.S.P (Narcotic Cell) by order No.D4/7952/05 T dated 22-2-2005. Accordingly the said Dy.S.P. took up the investigation after intimating that fact to the Court on 4-3-2005; that he conducted the enquiry in the crime between 4-3-2005 and 20-5-2006 and thereafter he retired and that the investigation was subsequently taken up by his successor Dy.S.P. P.S.John.

After the investigation was taken up by P.S.John, Chithrangadan appeared before him in his office and had given a statement saying that Sujith, S/o Vasanthi and Sony, S/o Sheela assaulted him with sword and therefore he was admitted in the Medical College Hospital, Tiruvananthapuram. Sony who is also known as Abheeshraj, S/o Sheela (who is the petitioner in this HRMP) obtained anticipatory bail from the Sessions Court, Thiruvananthapuram in Crml. M.C.No.2908/2004 on condition that he has to co-operate with the investigation. The Dy.S.P. summoned Sony to his office by sending registered

letter and though he accepted the same he did not appear before the Dy.S.P and therefore the officer could not recover the weapon alleged to have been used in the offence. While the matter stood thus, the defacto complainant Chithrangadan went to the Office of the Dy.S.P. on 20-1-2007 and requested the officer who was conducting the investigation to remove Sony alias Abheeshraj from the array of the accused. Dy.S.P refused his request saying that since he has already given a statement implicating Sony alias Abheeshraj in the crime he cannot remove him from the list of accused and advised that he can appear before the concerned court after the final report was filed and settle the crime if he so desires.

On receiving the report, I directed the petitioner to appear at the Headquarters sitting on 29-10-2007. On that day the petitioner was present and after hearing her I felt that C.G.Suresh Kumar, C. I. of Police, Neyyattinkara, P.S.John, Dy.S.P. Narcotic Cell and Chithrangadan, the defacto complainant, should also to be present and accordingly directed the office to send summons to them and the matter was posted for hearing on 14-11-2007. On 14-11-2007 the petitioner alone was present and the officials and Chithrangadan were not present, as summons could not be served. Therefore, I directed that summons to be issued to the parties with a direction that they should appear before the Headquarters sitting of the Commission on this date and today the petitioner, the defacto complainant Chithrangadan, C.G.Sureshkumar, the then C.I.of Police, Neyyattinkara (presently Dy.S.P., Pathanamthitta) and P.S.John, the then Dy.S.P. (Narcotic Cell) who is now posted in Crime Branch, Kollam have appeared.

I questioned all of them. C.G.Sureshkumar, C. I. of Police, Neyyattinkara stated that though initially in the FIR Chithrangadan did not mention the name of Sony alias Abheeshraj and also did not give the said name when he questioned him, subsequently he gave the name of Sony alias Abheeshraj on 14-2-2005 as one of the accused. Thereafter the investigation was taken up by R.Gopinathan Nair, Dy.S.P. by the order of the superior officer and he conducted the investigation for a period between 4-3-2005 and 20-3-2006 and Chithrangadan appeared at the Office of the Dy.S.P only after the investigation was taken up by P.S.John, on the retirement of R.Gopinathan Nair, while the said P.S.John was conducting the investigation. He stated before P.S.John, Dy.S.P, that Sony alias Abheeshraj is one of the person assaulted him with sword on account of which he had to be admitted in the Medical College Hospital. Dy.S.P after conducting enquiry and ascertaining the identity of Sony alias Abheeshraj added him as one of the accused in the crime and submitted the report to the court accordingly. It could also be seen that Chithrangadan, the defacto complainant, once again appeared before P.S.John, Dy.S.P, on 20-1-2007 and requested him to remove Sony alias Abheeshraj (son of the petitioner) from the array of accused to which request P.S.John refused to accede as he has already sent the report to the court and therefore he has no jurisdiction to do so. The above facts were not disputed before me either by Chithrangadan or by the above officers who appeared before me.

In fact the statement given by Chithrangadan to the police during investigation was shown to him and specifically asked whether he had given such a statement implicating Sony in the crime and he said he gave the said statement. It is to be

remembered at this stage that the petitioner Sheela sent the statement of Chithrangadan to this Commission wherein he stated that he did not want to implicate her son Sony and that the said statement was shown to Chithrangadan and asked whether he had given such a statement and he admitted that it is his statement. The facts are not in dispute. The defacto complainant, Chithrangadan, therefore gave a statement before the investigating officer implicating Sony alias Abheeshraj in the crime and against another which was forwarded to the Commission by Sheela (the petitioner in this HRMP) and who stated before me orally that he gave such a statement as Sony was not involved in the crime.

On going through the above materials I find that I cannot pass any order either in favour of the petitioner or against her as the matter is subjudiced and investigation is almost over and final report is to be filed shortly before the court after obtaining sanction from the Collector under the Arms Act. The Commission has no jurisdiction to give a finding whether the statement given by Chithrangadan to the investigating officer is true or statement given by him subsequently to the petitioner is true since it lies exclusively within the jurisdiction of a competent criminal court which will decide the matter. I therefore direct the petitioner and Chithrangadan to approach the court to work out their remedies after the final report is filed, which it is stated will be filed as expeditiously as possible after obtaining the sanction from the District Collector under the Arms Act.

With the above observation the petition is closed.

Justice N.Dhinakar,  
Chairperson.