

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

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

Dated this the 10<sup>th</sup> December, 2008.

H.R.M.P.No.670/2008

Petitioner : Manoj, S/o Shanmughan,  
Aluvila veed, Anad Kulavikonam,  
Nedumanagad,, Thiruvananthapuram

Respondent :

**ORDER**

The allegation of the petitioner in the above HRMP is that he was arrested at 5.30 p.m. on 24-1-2008 in connection with crime No.6/08 but was not produced before the Court for two days. According to him, when he filed an anticipatory bail before the Sessions Court the police reported that he is not an accused and subsequently police arrested him without following the guidelines and detained him illegally.

In the report submitted by the City Police Commissioner, Thiruvananthapuram, it is stated that on the complaint of Baby John, alleging theft of jewels a crime in crime No.6/08 was registered and FIR was prepared and submitted before the Court. It is also stated in the report that the Circle Inspector of Police, Museum, took up investigation on 15-1-2008 and made enquiries during which he also questioned the petitioner as the defacto complainant Baby John expressed his suspicion about the petitioner who was then working as his

driver and later arrested him on 26-2-2008 after observing all the formalities and produced him before the Court. The theft articles along with the mahazar prepared for the seizure were also produced before the Court and the Court remanded the petitioner for 15 days.

Along with the report statement of Satheesan, who is the brother-in-law (sister's husband) of the petitioner, is annexed. In the said statement Satheesan has stated that Manoj went to his house at Kulasekharam and wanted to sell gold and he made arrangements for selling them to John, a gold merchant, for Rs.82,000/- and later the petitioner was not seen by him.

Statement of petitioner's sister Manju is also annexed to the report. Along with the report, copy of letter signed by Jaya, mother of the petitioner, acknowledging the receipt of articles taken from Manoj at the Police Station at the time of arrest is also annexed. I have also perused the order of the Sessions Court passed in Criminal M.C.119/08 which was filed u/s 438 of Cr.PC for anticipatory bail.

The report, therefore, shows that there was a complaint regarding theft and later the petitioner was arrested in connection with the crime and valuables were recovered on the statement of the petitioner and that the petitioner and the articles were also produced before the Court. The arrest, according to the report, was on 26-2-2008 though according to the petitioner he was wrongfully detained for two days.

In the order passed by the Sessions Court, on the petition filed by the petitioner u/s 438 Cr.PC, the Court stated that the anticipatory bail petition of the petitioner is opposed and the petitioner is suspected in the crime though he was not brought as an accused in the crime as on that date (1-2-2008) when the order was passed. The Court also stated that the petitioner himself admitted that he was taken to Police Station and questioned but was not arrested by the investigating officer on that day and therefore, dismissed the petition as he was not an accused on the said date.

On going through the order of the Sessions Court I do not find any thing in the said order to indicate that the petitioner was taken into illegal custody and detained; but on the contrary the order itself shows that the petitioner was taken to police station and questioned and thereafter released. The said order was passed on 1-2-2008 and the present version of the police is that the petitioner was arrested on 26-2-2008 after the materials were gathered that the petitioner committed theft of jewels. The statements of petitioner's sister and her husband prima facie show that the petitioner sold jewels at Tamil Nadu to one John with the assistance of his brother-in-law. In this context, the letter signed by the petitioner's mother acknowledging the receipt of articles, which were in possession of the petitioner at the time of arrest, also is to be taken in to account. The said letter does not indicate that the petitioner was taken into illegal custody and detained at the police station and later remanded by the Court.

In any event, the question, whether the petitioner was arrested on 24-2-2008 or 26-2-2008, will have a direct bearing as regards the recovery of gold jewels and the findings have to be given on the said issue only by a competent Court and this Commission cannot and shall not interfere in any judicial proceedings by giving findings on question of facts which will come up before the Court during the course of trial and if such findings are given it will amount to interference in judicial work which this Commission cannot even dream of. The petition, therefore, is closed with liberty to the petitioner to raise his contentions, if advised, before the competent Court.

Justice N.Dhinakar,  
Chairperson.