

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

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

Dated this the 2nd July, 2010.

H.R.M.P.No.73 of 2010

Petitioner : Manikuttan,
Alayil Kizhakkethil, Manakkara,
Sasthamcotta.

Respondents : 1) K. Prasannakumar,
Deputy Superintendent of Police,
Karunagappally.
2) Richard, Rijo Bhavanam,
Pallisserickal, Sasthamcotta.

ORDER

The complaint of the petitioner is that at 11 a.m. on 10-12-2009 the second respondent (R2) and three others assaulted him and they are the henchmen of R1 (Dy.S.P. Karunagappally) and no case was registered by Sasthamcotta Police on his complaint in respect of the assault on him on account of the influence of R1. It is his further complaint that but a false case was registered against him by Sasthamcotta Police on the influence of R1 on 16-12-2009. According to him R2 is wrecking vengeance upon him since he filed a petition to the Government requesting to prosecute him.

A report was called for from the Superintendent of Police, Kollam and he forwarded the report prepared by the Deputy Superintendent of Police, Karunagappally, who is the first respondent in this HRMP.

In the above report the Dy.S.P. has stated that he was the Circle Inspector (C I) of Police, Sasthamcotta, from 19-12-2006 to 14-9-2008. Later he was promoted and now working as the Dy.S.P. Karunagappally. According to him, while he was working as C I of Police, Sasthamcotta, Saraswathi Amma, mother of Manikuttan who is the

petitioner in this HRMP, filed a petition against him on 25-5-2008 alleging that the latter assaulted and threatened her and taken away her belongings. Both parties were summoned to his office on 7-6-2008 and heard and while he is trying to solve the issue Manikuttan abused his mother and obstructed his official duty and hence he was arrested and his autorickshaw was also seized. According to the report, crime 325/08 u/s 353 IPC for causing obstruction to the official duty of the C I of Police and crime No.324/08 on the statement of Saraswathy Amma were registered against Manikuttan and he was produced before the Judicial First Class Magistrate (JFMC), Sasthamcotta and the autorickshaw was also produced before the Court and that he was released on bail on 9-6-2008. In the report it is further stated that Manikuttan filed Crl.M.C. No.2529/08 before the High Court and the autorickshaw was got released.

In the report it is also stated that at 11.30 a.m. on 10-12-2009 the petitioner wrongfully restrained Richard (R2), abused and assaulted him at the fish market at Anjilimood. According to the report, on 16-12-2009 R2 went to Sasthamcotta Police Station and on his statement crime 918/09 u/s 341, 294 (b), 323, 506 (i) IPC was registered against Manikuttan. In the report it is also stated that he only tried for a settlement of the dispute between the mother and the son and he never assaulted the petitioner and he denied the allegations in the petition and that he was on special duty at Sabarimala from 7-12-2009 to 17-12-2009. In the report it is further stated that the petitioner had filed a private complaint against him and the same is pending trial before the JFMC, Sasthamcotta.

Along with the petition the petitioner has annexed a copy of the judgment passed by the High Court in WP(C) 30894/2009 (Q) which is filed by the petitioner against five respondents including K.Prasannakumar, the then C I of Police, Sasthamcotta and he is the fifth respondent. The High Court disposed of the writ petition directing respondents 1 and 2, the Chief Secretary to Government and the Secretary, Home Department

respectively, to take a decision on the representation of the petitioner and pass appropriate order in accordance with law within two months from the date of receipt of a copy of the judgment.

Therefore, a report was called for from the Secretary to Government, Home Department, Thiruvananthapuram, as to the decision taken as per the direction of the High Court in the above writ petition.

In the report submitted by the Additional Chief Secretary to Government, Home (A) Department it is stated that the request of the petitioner was examined by the Government in consultation with the Director General of Police and it is found that K.Prasannakumar, former C I of Police, Sasthamcotta, had acted in his official capacity only and by using filthy language the petitioner obstructed him from discharging his official duty. In the report it is also stated that the Government, therefore, considered the opinion that there is no valid ground to issue prosecution sanction against K.Prasannakumar as requested by the petitioner and hence the request was rejected and informed the position to the petitioner as per Government letter No.50691/A5/08/Home dated 14-12-2009.

In view of the above no further orders can be passed by this Commission and if the petitioner has any grievance he has to approach the High Court only for the redressal of the same. More over no orders can also be passed since the trial is pending before the JFMC, Sasthamcotta, on the petition filed by the petitioner against R1. The petition is hence closed.

Justice N. Dhinakar,
Chairperson.