



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 17TH DAY OF DECEMBER 2024 / 26TH AGRAHAYANA, 1946

WP(C) NO. 15791 OF 2020

PETITIONER:

SMT.AMBIKA
AGED 52 YEARS
W/O.SASEEDHARAN,
RESIDING AT VADAKKETHARAKATH HOUSE,
NENMINI P.O. GURUVAYOOR,
THRISSUR DISTRICT - 680 104.

BY ADVS.
SAJITH KUMAR V.
SHRI.VIVEK A.V.
SHRI.GODWIN JOSEPH
SMT.APARNA CHANDRAN

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY TO THE GOVERNMENT,
DEPARTMENT FOR HOME AFFAIRS,
GOVT. OF KERALA, SECRETARIAT, P.O.
THIRUVANANTHAPURAM - 695 001.
- 2 THE SECRETRY TO THE GOVERNMENT
DEPARTMENT FOR LEGAL AFFAIRS,
GOVERNMENT OF KERALA, SECRETARIAT, P.O.
THIRUVANANTHAPURAM - 695 001.



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3 THE STATE POLICE CHIEF,
POLICE HEADQUARTERS
VAZHUTHACAUD, SASTHAMANGALAM P.O.
THIRUVANANTHAPURAM - 695 010.

BY ADVS.
SMT. SEETHA S. - SR. PUBLIC PROSECUTOR
SRI.K.V.SOHAN, STATE ATTORNEY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 17.12.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is the victim in S. C. No.505/2018 pending on the files of the Additional Sessions Court, Irinjalakuda (for short 'the trial court'). Her son was murdered in broad daylight at 12.55 pm on 12.11.2017. Immediately after the incident, Ext.P2 FIR was registered. After the trial, the final report was filed against seven accused for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act. The accused appeared before the trial court and pleaded not guilty.

2. The petitioner submitted Ext.P3 application before the 1st respondent requesting to appoint a Special Public Prosecutor namely, Adv. T. C. Krishnanarayanan to conduct the trial. The 1st respondent rejected Ext.P3 application as per Ext.P5 order mainly on the ground that the case does not fall within the purview of Ext.P7 guidelines issued by the Government for the appointment of Special Public



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Prosecutor. On receipt of Ext.P5, the petitioner submitted Ext.P6 representation to the 1st respondent to review Ext.P5 order. Thereafter, the petitioner approached this Court by filing W.P.(C) No.31187/2019 challenging Ext.P5 order. This Court as per Ext.P8 judgment set aside Ext.P5 and directed the 1st respondent to reconsider Ext.P3 application in the light of Ext.P7 Circular. The respondents challenged Ext.P8 before the Division Bench of this Court. This Court as per Ext.P9 judgment directed the 1st respondent to reconsider the matter in the light of the observations / principles in the judgment in Writ Appeal and Ext.P7 guidelines issued on behalf of the State Government. Thereafter, the 1st respondent rejected Ext.P3 application as per Ext.P1 order. The said order is under challenge in this Writ Petition.

3. I have heard Sri. Sajith Kumar V., the learned counsel for the petitioner and Smt. Seetha S., the learned Senior Public Prosecutor.

4. Ext.P7 guidelines issued by the Government of Kerala deals with the appointment the Special Public



Prosecutor. Clause 3(b) of Ext.P7 enumerates the categories of cases which shall ordinarily be considered for the appointment of a Special Public Prosecutor. In Ext.P5 as well as in Ext.P1, the stand taken by the Government is that the case on hand does not fall within any of the categories of cases mentioned in clause 3(b) of Ext.P7. Clause 3(b)(i) deals with the following categories of cases;

“cases such as heinous murder or kidnapping or rape particularly of minor and which are gruesome in character shocking the collective conscience of the community at large.”

5. In Ext.P8 judgment, the Single Bench of this Court found that the case on hand falls within the condition No.(i) in Clause 3(b) of Ext.P7. The Single Judge also found that it is a fit case where a Special Public Prosecutor could be appointed. In Ext.P9 judgment, in fact Ext.P8 judgment was not set aside. But the Division Bench set aside Ext.P5 communication rejecting the request of the petitioner for the appointment of a Special Public Prosecutor and the



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Government was directed to take a fresh decision on Ext.P3 application given by the petitioner in the light of Ext.P7 guidelines.

6. Ext.P2 is the FIR. The prosecution allegation as per Ext.P2 is that, on 12.11.2017 at 12.55 pm, while the defacto complainant and the deceased were travelling on a motor cycle, the accused with the intention to kill them came in a car armed with deadly weapons such as sword, hit against the motor cycle driven by the defacto complainant and when the defacto complainant and the deceased fell on the road, the accused gave cut injuries to the defacto complainant repeatedly, murdered the deceased and caused grievous injuries to the defacto complainant. No doubt, going by the prosecution case, it is a heinous murder which is gruesome in character and shocks the conscience of the community at large. It is a case that falls under Clause 3(b)(i) of Ext.P7. Hence, Ext.P1 is set aside. The 1st respondent is directed to take a fresh decision on Ext.P3, in accordance with law and in the light of the observations made in this judgment, within



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a period of one month from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

**Sd/-
DR. KAUSER EDAPPAGATH
JUDGE**

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APPENDIX OF WP(C) 15791/2020

PETITIONER'S EXHIBITS

- EXHIBIT P1** **A TRUE COPY OF THE ORDER NO. G.O.(RT) NO. 1219/2020/HOME DATED 25.05.2020 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT P2** **A TRUE COPY OF THE FIR IN CRIME NO. 1025 OF 2017 OF GURUVAYOOR POLICE STATION ALONG WITH ITS TRANSCRIBED COPY.**
- EXHIBIT P3** **A TRUE COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY THE PETITIONER RECEIVED BY THE OFFICE OF THE CHIEF MINISTER ON 15.03.2019 ALONG WITH A COPY OF THE ACKNOWLEDGEMENT CARD.**
- EXHIBIT P4** **A TRUE COPY OF THE LETTER NO. C4/112/2019 HOME DATED 29.06.2019 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT P5** **A TRUE COPY OF THE ORDER NO. C4/112/2019/HOME DATED 05.10.2019 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT P6** **A TRUE COPY OF THE REPRESENTATION DATED 05.11.2019 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**
- EXHIBIT P7** **A TRUE COPY OF THE GUIDELINES ISSUED AS PER CIRCULAR NO. 264/C4/2017/HOME DATED 18.09.2017 ON BEHALF OF THE 1ST RESPONDENT.**
- EXHIBIT P8** **A TRUE COPY OF THE JUDGMENT DATED 11.12.2019 IN WPC NO. 31187/2019 OF THIS HON'BLE COURT.**
- EXHIBIT P9** **A TRUE COPY OF THE JUDGMENT DATED 26.02.2020 IN W.A. NO. 261/2020 OF THIS HON'BLE COURT.**