

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY, THE 3RD DAY OF SEPTEMBER 2021 / 12TH BHADRA, 1943

WP (C) NO. 11880 OF 2021

PETITIONER:

ANIL J.S
S/O. SHIVAJI, JAGATHALE HOUSE, GROUND ROAD, CHERPU P.O,
CHERPU, THRISSUR DISTRICT, PIN - 680561.

BY SRI.DINESH MATHEW J.MURICKEN

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO HOME, SECRETARIAT, PALAYAM
P.O, THIRUVANANTHAPURAM DISTRICT, PIN - 695001.
- 2 THE DIRECTOR GENERAL OF POLICE,
OFFICE OF THE DIRECTOR GENERAL OF POLICE, STATE POLICE
HEADQUARTERS, VELLAYAMBALAM, THIRUVANANTHAPURAM
DISTRICT, PIN - 695010.
- 3 THE SUPERINTENDENT OF POLICE (THRISSUR)
OFFICE OF THE SUPERINTENDENT OF POLICE, KALYAN NAGAR,
AYYANTHOLE P.O, THRISSUR DISTRICT, PIN - 680003.
- 4 THE SUB INSPECTOR OF POLICE
CHERPU POLICE STATION, CHERPU P.O, THRISSUR DISTRICT,
PIN - 680561.

SRI E.C BINEESH- GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The inviolable essential for the Police Force to act with self control and tolerance and to treat citizens with respect and courtesy have already been spoken affirmatively by a learned Division Bench of this Court in **Siddique Babu v. State of Kerala** (2018 (5) KHC 576). However, instances of allegations to the contrary are still arriving at the doors of this Court with alarming regularity and therefore, I feel it necessary to issue certain general directions in this judgment, apart from deciding the specific factual assertions of the petitioner.

2. The petitioner has approached this Court making several accusations against fourth respondent - Sub Inspector of Police, who, he says, has been harassing him constantly and even subjected his daughter to verbal abuse. The petitioner says that the fourth respondent also attempted to foist various complaints against him; and consequently that he was left without any other remedy but to have approached this Court through this writ petition.

3. The afore submissions of the petitioner, made by his learned counsel - Smt.Ansu Sara Mathew, were countered by the learned Government Pleader – Sri.E.C.Bineesh, submitting that the truth is not as has been averred by the petitioner. He submitted that an “Action Taken Report” on the allegations of the petitioner has been placed before this Court, through his memo dated 30.07.2021, wherein, it has been explained that on “one day in April 2021”, while the fourth respondent - Sub Inspector of Police was on COVID enforcement duty, the petitioner's minor daughter and certain other people were seen gathered in the former's Supermarket by name “Priya Supermarket” violating the COVID-19 protocols and therefore, that he issued a notice to them and explained the necessity of complying with the said protocols.

4. The learned Government Pleader, thereafter, submitted that on 20.04.2021, the petitioner was found by the same Officer in the Supermarket without a mask and without taking adequate steps to ensure social distancing among his customers; and that he was, therefore, imposed a fine of Rs.500/- under the provisions of the Kerala Epidemic

Disease Ordinance, 2020. He then added that the petitioner continued to violate the COVID-19 protocols with impunity and resultantly that the Sectoral Magistrate issued him a notice on 24.05.2021 and imposed a fine of Rs.2,000/-.

5. The learned Government Pleader further predicated that petitioner was also involved in other offences, which is evident from the fact that on 11.05.2021, a lady by name Smt.Radhika Maruthi launched a complaint before the Police that he had taken 22 gms of gold from her illegally, but that this was then settled by agreeing to return the same; while on 06.05.2021, another complaint was launched against him by a certain Sri.Joy, leading to a crime being registered as Crime No.289/2021, under the provisions of Sections 454, 461 and 380 of the Indian Penal Code, accusing him of having purchased stolen gold. He explained that investigation into this crime lead to the recovery of gold from the petitioner and that it has been produced before the Judicial First Class Magistrate Court, Thrissur. He thus prayed that this writ petition be dismissed.

6. Before moving on, I must record that on examining the afore "Action Taken Report" on 25.08.2021 - when this

case had been earlier listed - noticing that certain specific allegations of the petitioner had not been adverted to by the District Police Chief, Thrissur in it, I issued the following order:

“I have examined the “Action Taken Report” filed by the District Police Chief, Thrissur.

2. There are some issues in this report which are disconcerting.

3. For the first, in paragraph 2, the District Police Chief refers to “*one day in April 2021*”, with respect to the allegation of the petitioner that his daughter was harassed by the 4th respondent.

4. For the second, paragraphs 3 and 4 refer to repeated offences of the petitioner with respect to Covid-19 protocol violations; however, no substantiating documents or materials have been placed on record.

5. As regards paragraphs 5 and 6, I am certain that this Court cannot interfere in any of them and that the petitioner will have to invoke his remedies, if any.

6. As far as this Court is concerned, what is important is that the 4th respondent is alleged to have used abusive language against the petitioner's daughter, but the report of the District Police Chief is silent on this. Further, the allegation of repeated harassment by the 4th respondent against the functioning of the shop by the petitioner has not been specifically answered with reference to whether the area was in a containment zone at the relevant time or whether there was a lock-down in force.

7. I am, therefore, of the firm view that these issues will require to be specifically addressed by the District Police Chief through an additional report.

I, therefore, adjourn this matter to be called on 31.08.2021, for the District Police Chief to file the additional report as afore.”

7. Today, an additional “Action Taken Report” has been placed before this Court, wherein, the District Police Chief says that, pursuant to the afore order, an investigation was ordered through the Inspector of Police, Cherpu, who found that the fourth respondent did not use abusive language against the petitioner's daughter and that the statements of eye witnesses, in corroboration, have also been recorded. As regards the harassment to his business alleged by the petitioner, the District Police Chief admits that the Cherpu Panchayat was included in the “Containment Zone” between 30.04.2021 and 25.05.2021, but asserts that ward No.11 - where the petitioner's Supermarket is situated - continued to be so included until 30.06.2021.

8. The learned Government Pleader, thus submitted that, therefore, the Sub Inspector and the Sectoral Magistrate were wholly justified in having imposed penalties against the petitioner for violation of the COVID-19 protocol. He concluded by vehemently maintaining that no harassment had been meted out to the petitioner or his

daughter; and added that they are not required to visit the Police Station for any purpose henceforth.

9. When I carefully assess the “Action Taken Reports” filed by the District Police Chief, I am forced to say that there are several loose ends in it. It is strange that the first “Action Taken Report” did not even advert to the allegation that the petitioner's daughter had suffered verbal abuse; while in the second ‘Action Taken Report’, it is merely stated that an enquiry by the Inspector of Police has found otherwise, but the said report has not been placed on record nor have the details of the enquiry even referred to in it. Further, both the “Action Taken Reports” have attempted to cast aspersions on the petitioner, to project him as a person who is a virtual habitual offender. The conduct of the petitioner is not relevant to this case because even if it is assumed that he is so, no Police Officer can transgress the perimeters of decency.

10. I do not propose to say further, since this Court is incapacitated from verifying the truth and since the petitioner has remedies, if he is so interested to invoke.

11. Though I conclude as afore, one aspect that

singularly troubles the mind of this Court is the allegation of the petitioner that the fourth respondent - Sub Inspector used abusive language against his minor daughter on the accusation that she had not complied with the COVID-19 protocols. This is something that creates disconcert to this Court – though I do not propose to find affirmatively one way or the other taking note of the Action Taken Reports of the District Police Chief - because there can be no doubt that the Police Authorities are obligated to enforce the COVID-19 protocols with humanism and in full compliance with the civilized behaviour.

12. When the entire world is reeling under the deleterious effects of COVID-19 pandemic, there can be no doubt that the citizens have to comply with the Protocols put in place, but this cannot be done - for whatever be the reasons - in violation of civilized behaviour and in contravention of the requirements of decency and civility, which are inbuilt into the system of policing in a cultured society.

13. As I have said said exordially to this judgment, even after **Siddique Babu** (supra), the march of the citizens to

this Court, on the assertion that they have been verbally abused or treated with indignity by Police Officers continues; and it consequently needs to be taken with the seriousness it deserves by the Director General of Police, who has been arrayed as the second respondent in this case.

14. The directions that I am proposing presently are not solely with respect to the facts of this case and is more intended to sensitise the Police Force, when they deal with the citizenry on a day-to-day basis.

15. Often, it is difficult, if not impossible, for a citizen to prove that a Police Officer has addressed him/her in a derogatory manner, or has dealt with them with an abusive tenor, because such imputations are investigated by the police authorities themselves.

16. Though, not substantiated in majority of the cases, petitions filed invoking the jurisdiction of this Court - in what is now known as "police harassment matters" - impute that Police Officers have addressed the petitioners with derisory and disrespectful words, instead of the culturally acceptable vocatives. Words like 'eda', 'edi', and 'nee' are often alleged to be used against the citizens by the

members of the police in a routine manner, even when public safety measures like COVID-19 protocols are enforced.

17. It may not require this Court to speak with great elaboration or expatiation when I say that the afore words, if used to address citizens by Police Officers, is anathema to a civilised and cultured Force and are the relic of the colonial subjugatory tactics. Certainly, they have no place in a free country marching in pace with needs and requirements of the 21st century. Use of these and such other words to address citizens by any Police Officer is wholly impermissible and therefore, it is now imperative for this Court to declare that such use by any member of the Force is contrary to the constitutional morality and conscience of our country and is antipodean to the ethos of a democratic system. It is so declared.

18. I, therefore, dispose of this writ petition, refraining from making specific directions on the facts of this case, but recording the submissions of the learned Government Pleader, thus leaving liberty to the petitioner to invoke his remedies against any of the allegations made against him, which are recorded in the Action Taken Reports

of the District Police Chief, if he is so advised.

19. That being so said, since this Court is now certain that use of disrespectful words to address the citizens cannot be tolerated or permitted, I direct the State Police Chief to issue necessary instructions, by way of a Circular or otherwise, to all members of the Force under his command that they shall address the citizens using acceptable vocatives and shall not use the aforementioned or such other words or phrases.

20. I must record that, at this time, the learned Government Pleader intervened to say that, noticing the declarations in **Siddique Babu** (supra), the State Police Chief had issued Circular bearing No.C3/174267/2018/PHQ dated 30.11.2018, ordering that '*all officials working in the Police Department are legally bound to speak to all decently*'. He submitted that this circular has been brought to the notice of all the officers; and that the Controlling Authorities have been directed to give due attention and additional training to the members of the Force for this purpose.

21. Though I appreciate the afore action taken by the State Police Chief, it cannot be lost sight of that the afore circular is stated to be dated 30.11.2018, but complaints of rude behaviour and improper address by Police Officers still reach the doors of this Court, three and more years thereafter.

22. This Court is, therefore, firm in the resolve that the State Police Chief should appositely remind all officers of their unexpendable obligation to treat and address the citizens with respect.

Consequently, the State Police Chief will act as per the afore directions and inform this Court about the steps taken in this regard through a report to be filed within two weeks from the date of receipt of a copy of this judgment. The Registry will list the said report before this Court appropriately to verify compliance and for consideration if any further orders becomes necessary on this aspect.

Sd/- DEVAN RAMACHANDRAN

JUDGE

stu

APPENDIX OF WP(C) 11880/2021

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE NOTICE ISSUED TO THE
PETITIONER BY THE 4TH RESPONDENT DATED
20.04.2021.
- Exhibit P2 TRUE COPY OF THE NOTICE ISSUED TO THE
PETITIONER BY THE 4TH RESPONDENT DATED
25.04.2021.
- Exhibit P3 TRUE COPY OF THE COMPLAINT FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT DATED
27.05.2021.