



2025:KER:29845

W.A. No.950 of 2019

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

WA NO. 950 OF 2019

**AGAINST THE JUDGMENT DATED 19.12.2018 IN WP(C)
NO.19737 OF 2018 OF HIGH COURT OF KERALA**

APPELLANT/PETITIONER:

**P.GOPALAKRISHNAN@DILEEP, AGED 51 YEARS
S/O. (LATE) PADMANABHA PILLAI, PADMA SAROVARAM
HOUSE, KOTTARAKADAVU, ALUVA, ERNAKULAM DISTRICT.**

**BY ADVS.
PHILIP T.VARGHESE
THOMAS T.VARGHESE
SUJESH MENON V.B.
THOMAS ABRAHAM (NILACKAPPILLIL)
E.VIJIN KARTHIK
SRI.B.RAMAN PILLAI (SR.)**

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY, HOME
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2 THE STATE POLICE CHIEF, POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM-695 010.**



2025:KER:29845

W.A. No.950 of 2019

2

- 3 UNION OF INDIA, REPRESENTED BY THE SECRETARY,
DEPARTMENT OF PERSONNEL AND TRAINING, NORTH
BLOCK, NEW DELHI-110 001.
- 4 THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, NEW DELHI-110 003.
- 5 THE CENTRAL BUREAU OF INVESTIGATION,
REPRESENTED BY ITS DIRECTOR, NEW DELHI.
- 6 THE SUPERINTENDENT OF POLICE, THE CENTRAL BUREAU
OF INVESTIGATION, KATHRIKADAVU, KOCHI-682 017.

BY ADVS.
DIRECTOR GENERAL OF PROSECUTION
SRI.SUMAN CHAKRAVARTHY, SENIOR GOVT.PLEADER
SRI.JAISHANKAR V.NAIR, CGC
Sreelal Warriar

K.P. SATHEESAN SC, CBI
P. NARAYANAN SPL. GP/ ADDL. PP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



J U D G M E N T

A. Muhamed Mustaque, J.

In this appeal, the accused who is now being tried by the Principal Sessions Court, Ernakulam, questions certain observations and findings made by the learned Single Judge in a writ petition filed by the appellant himself for CBI investigation. The learned Single Judge had declined the request for the CBI investigation after making certain observations and findings.

2. According to the learned Senior Counsel, these observations and findings may have far reaching consequences, even affecting the ongoing trial, and these findings and observations will have to be eschewed.

3. The learned Special Government Pleader/Additional Public Prosecutor submits that these are all observations and findings made in a context when the appellant/petitioner sought CBI investigation, and therefore, it would not affect the ongoing trial before the Principal Sessions Court, Ernakulam.

4. It is appropriate to refer to certain findings



made by the learned Single Judge. In Paragraph 35, the learned Single Judge, after referring to the media publicity, found as follows:

"I do not feel undue publicity given by the news agencies has in any manner prejudiced the investigation. As mentioned above, considering the nature of the case and the celebrity status of the petitioner and the defacto complainant, publicity in the media was inevitable."

5. How much the media publicity had affected the trial or not is a question that cannot be decided in such a matter unless the trial is concluded. This finding, according us, was unnecessary in a matter like this. Therefore, we order that the findings be eschewed from the impugned judgment.

6. In paragraph 36, the learned Single Judge answered in regard to the objection raised by the appellant/petitioner on introduction of new a witness in the second round of investigation. The learned Single Judge answered that such an introduction of a new witness in such stage itself is not a ground for further investigation. According to us, this is only for the purpose of refuting the appellant's/petitioner's claim for re-investigation, and it would no way affect challenging the introduction of such a witness on the



conclusion of the trial.

7. In paragraph 38, it is observed by the learned Single Judge as follows:

"A discussion of the above facts clearly show that none of the contentions regarding bias and selective investigation as ground for investigation by another agency is sustainable."

8. In regard to the investigation, whether the case has been biased or not, is a matter to be decided by the Trial Court after holding the trial. This observation is only to repel the appellant/petitioner from the claim for re-investigation by another agency and not approving or disapproving the investigation itself.

9. The learned Single Judge while disposing of the matter, concluded that there does not appear to be any material that establishes that the investigation was stained or biased. This also, according to us, should be left open to be decided in an appropriate manner, and it is only at the threshold of the investigation that the observation was made to repel the appellant's/petitioner's claim for re-investigation and not deciding upon the validity of the investigation itself. These are all matters to be decided by the Trial Court, at an appropriate



2025:KER:29845

W.A. No.950 of 2019

6

level.

We finally concur with the learned Single Judge in regard to the relief declining further investigation by CBI, as it is unwarranted for all other reasons referred in the impugned judgment. We also find that the trial is almost concluded, and the matter is now ripe for a final conclusion. We dispose of this writ appeal confirming the impugned order, however, subject to the reservations made against the findings as above.

Sd/-

**A.MUHAMED MUSTAQUE
JUDGE**

Sd/-

**P. KRISHNA KUMAR
JUDGE**

PR