



2025:KER:92496

C.R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

MONDAY, THE 1ST DAY OF DECEMBER 2025 / 10TH AGRAHAYANA,

1947

WP (C) NO. 23943 OF 2017

PETITIONER

ANISH ANAND, AGED 33, S/O ANAND, USHAS, KIDANGIL
PURATHOTTU HOUSE, THAZHAM MURI, MALAYALAPPUZHA,
PATHANAMTHITTA DISTRICT. PIN.689666.

BY ADVS.
SRI.V.SETHUNATH
SRI.V.R.MANORANJAN (MUVATTUPUZHA)

RESPONDENTS

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO HOME
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
PIN.695001
- 2 THE STATE POLICE CHIEF
POLICE HEAD QUARTERS,
VAZHUTHAKKAD, THIRUVANANTHAPURAM. PIN. 695014
- 3 THE DISTRICT POLICE CHIEF,
PATHANAMTHITTA PO, PIN.689645
- 4 THE DEPUTY SUPERINTENDENT OF POLICE (CRIME
BRANCH), PATHANAMTHITTA PO, PIN. 689645.
- 5 THE DEPUTY SUPERINTENDENT OF POLICE (LAW &
ORDER), PATHANAMTHITTA PO, PIN.689645.



2025:KER:92496

- 6 THE CIRCLE INSEPCTOR OF POLICE
PATHANAMTHITTA PO, PIN. 689645.
- 7 THE SUB INSPECTOR OF POLICE
PATHANAMTHITTA PO, PIN.689645.
- 8 XXX

BY ADVS.
SRI.T.K.HASSAN
SHRI.K.PAUL KURIAKOSE
SHRI.T.A.RAFEEK (CHERTHALA)

OTHER PRESENT:

SR.GP-SRI.A.VIPIN NARAYAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.11.2025, THE COURT ON 01.12.2025
DELIVERED THE FOLLOWING:



2025:KER:92496

C.R.

JUDGMENT

Dated : 1st December, 2025

The petitioner is the sole accused in C.C. No. 28 of 2015 on the file of the Chief Judicial Magistrate, Pathanamthitta, arising out of Crime No. 1041 of 2014 of Pathanamthitta police station. The offences alleged against the petitioner are under Section 420 and 354A IPC and Section 119(a) of Kerala Police Act.

2. The prosecution case is that the accused made friendship with the defacto complainant over social media, received a total sum of Rs.26,00,000/- from her after promising to repay the same with higher rate of interest. When she demanded repayment of the amount, he invited her to meet him near the Manorama, Kottayam office. When she reached there in a car, the petitioner allegedly outraged her modesty by grabbing her breasts and requested her to accompany him for receiving the payment. He also threatened her that unless she obeys him, he will not repay the amount and also that he will morph her nude photographs and transmit the same through social media. Exhibit P8 is the complaint filed by the defacto complainant which resulted in Exhibit P9 FIR registered by the SHO, Pathanamthitta Police Station. Exhibit P11 is the final report filed by the Investigating Officer after completing the investigation, which was taken on file by the Chief Judicial Magistrate as CC 28 of 2015.

3. Thereafter, the defacto complainant filed a petition before the



2025:KER:92496

Chief Judicial Magistrate, Pathanamthitta, alleging that the offence under Section 376 IPC was also committed by the accused and praying for ordering further investigation in the case. However, the Chief Judicial Magistrate dismissed the above application. It appears that thereafter the defacto complainant approached the Superintendent of Police, Pathanamthitta raising the same contentions. The Superintendent of Police, Pathanamthitta, entrusted further investigation with the Deputy Superintendent of Police, Crime Branch, Pathanamthitta. Exhibits P12 and P13 are the reports submitted by the Deputy Superintendent of Police, Crime Branch, before the Chief Judicial Magistrate, Pathanamthitta. According to the learned counsel for the petitioner, further investigation conducted by a different agency, that too without the permission of the Chief Judicial Magistrate and Exhibit P12 and Exhibit P13 reports submitted by the said agency are unsustainable and liable to be rejected.

4. The petition was strongly opposed by the learned Public Prosecutor. According to the Public Prosecutor, the power under Section 173(8) of the Investigating Agency to conduct further investigation cannot be curtailed as it is a statutory right and therefore, he prayed for dismissing the writ petition filed by the accused for setting aside Exts.P12 and P13.

5. The learned counsel for the petitioner relied upon the decision of the Hon'ble Supreme Court in **Peethambaran v. State of Kerala & Anr., 2023 0 Supreme (SC) 466**, in support of his argument that further investigation is to



2025:KER:92496

be conducted by the same agency which conducted the original investigation. In the light of the above decision the learned counsel would argue that since the original investigation was conducted by the SHO, Pathanamthitta, further investigation conducted by the Crime Branch is liable to be set aside.

6. In the decision in **Chandra Babu v. Inspector of police, 2015 (3) KLT Suppl. 81(SC)** the Apex Court also held that further investigation under Section 173(8) Cr.P.C cannot be directed to be done by another agency. A similar view was taken by this Court in the decision in **Vijayakumar v. Kamarudhin, 1999 (1) KLT 184**.

7. In the decision in **Central Bureau of Investigation v. State of Kerala & Ors., 2015 (1) KLJ 417**, relied upon by the learned counsel, a Division Bench of this Court also held that further investigation contemplated under Section 173(8) of Cr.P.C is by the officer who has undertaken the investigation and submitted a report under sub section (2) of Section 173 Cr.P.C and not by another agency.

8. In the decision in **Athul Rao v. State of Karnataka and Another, 2017 (2) KLD 529 (SC)**, the Apex Court held that once charges are framed and the court has taken cognizance of the offence, further investigation cannot be ordered by the Magistrate suo motu, or on an application filed by the complainant/informant. In such cases, further investigation can be ordered only at the request of the investigating agency and that too, in the circumstances



warranting further investigation on detection of material evidence.

9. In the decision in **Chandra Babu Alias Moses v. State through Inspector of Police and Others, (2015) 8 SCC 774**, the Apex Court held that fresh/De novo investigation/Re-investigation or investigation by a different agency can be directed only by superior courts and not by the Magistrate.

10. It is true that the Investigating Agency has got every right to conduct further investigation in the light of Section 173(8) CrPC. However, as revealed from the above decisions, the law is well settled that further investigation is to be conducted by the same agency which conducted the earlier investigation and not by a different agency. In the above circumstance, further investigation conducted in this case by the Deputy Superintendent of Crime Branch and the reports filed by him namely, Exhibit P12 and Exhibit P13, are unsustainable and liable to be set aside.

In the result, this writ petition is allowed. Exhibit P12 and Exhibit P13 reports are set aside. The learned Chief Judicial Magistrate, Pathanamthitta, is directed to proceed with the trial of C.C.28 of 2015, ignoring Exhibit P12 and Exhibit P13.

Sd/- C.Pratheep Kumar, Judge



2025:KER:92496

APPENDIX

PETITIONER EXHIBITS

EXHIBIT P1	THE TRUE COPY OF THE ABOVE F.I.R & F.I STATEMENT IN CRIME NO.914 OF 2014 OF PATHANAMTHITTA POLICE STATION DATED 20.5.2014
EXHIBIT P2	THE TRUE COPY OF THE SAID COMPLAINT WHICH FORMS PART OF THE RECORDS IN CRIME NO.914 OF 2014.
EXHIBIT P3	TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE MEDICAL OFFICER, SMT. SHEEJA.
EXHIBIT P4	TRUE COPY OF THE STATEMENT GIVEN BY THE DEFACTO COMPLAINANT.
EXHIBIT P5	TRUE COPY OF THE DETAILED REPORT ISSUED BY THE GENERAL HOSPITAL.
EXHIBIT P6	THE TRUE COPY OF THE REPORT SUBMITTED BY THE S.I OF POLICE PATHANAMTHITTA BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE -1, PATHANAMTHITTA.
EXHIBIT P7	THE TRUE COPY OF THE SWORN STATEMENT GIVEN BY SIVANI TO THE LEARNED MAGISTRATE AND RECORDED BY HIM IN CRIME NO. 914/2014
EXHIBIT P8	THE TRUE COPY OF THE WRITTEN COMPLAINT SUBMITTED BY THE DEFACTO COMPLAINANT IN THE PRESENT CRIME.
EXHIBIT P9	THE TRUE COPY OF THE F.I.R IN CRIME NO.104 1 OF 2014 OF PATHANAMTHITTA POLICE STATION.
EXHIBIT 10	TRUE COPY OF THE ORDER OF THIS COURT IN B.A NO.4672/2014
EXHIBIT P11	THE TRUE COPY OF THE FINAL REPORT IN C.C 28/2015 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA.
EXHIBIT P12	THE TRUE COPY OF THE REPORT SUBMITTED BY THE DEPUTY POLICE SUPERINTENDENT OF POLICE (CRIME BRANCH) BEFORE THE C.J.M COURT, PATHANAMTHITTA DATED 29.5.2017
EXHIBIT 13	THE TRUE COPY OF THE REPORT SUBMITTED



2025:KER:92496

EXHIBIT P14

**BY THE DEPUTY POLICE SUPERINTENDENT OF
POLICE (CRIME BRANCH) BEFORE THE C.J.M
COURT, PATHANAMTHITTA DATED 29.6.2017**

**THE TRUE COPY OF THE PETITIONER FILED
BY THE DEFACTO COMPLAINT FOR RE-
INVESTIGATION OF THE CASE BEFORE THE
CHIEF JUDICIAL MAGISTRATE COURT,
PATHANAMTHITTA**