

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

FRIDAY, THE 19TH DAY OF FEBRUARY 2021 / 30TH MAGHA,1942

WP(C).No.20556 OF 2018(T)

PETITIONER/S:

- 1 ABHIJITH K.M
AGED 21 YEARS
PRESIDENT, KERALA STUDENT UNION, INDIRA BHAVAN,
VELLAYAMBALAM, THIRUVANANTHAPURAM
- 2 JAIS JOHN JAMES AGED 21 YEARS
S/O.JAMES JOSEPH, KUNNATHVEEDU, SANTHOSH
KAVALA, ONPATHAM COLONY, MUKKOOTTITHARA P.O.,
VECHOOCHIRA, PATHANAMTHITTA - 686510

BY ADVS.
SRI.BABY MATHEW
SRI.SEBASTIAN K.JOSE

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, STATE
SECRETARIAT, THIRUVANANTHAPURAM - 695001
- 2 THE UNION OF INDIA
REPRESENTED BY THE SECRETARY, MENISTRY OF HOME
AFFAIRS, NEW DELHI
- 3 THE CENTRAL BUREAU OF INVESTIGATION
REPRESENTED BY ITS SUPERINTENDENT, KADAVANTHRA,
KOCHI.
- 4 THE STATE POLICE CHIEF
STATE POLICE HEAD QUARTERS, VELLAYAMBALAM,
THIRUVANANTHAPURAM - 695010
- 5 THE INSPECTOR GENERAL OF POLICE
THIRUVANANTHAPURAM
- 6 THE DISTRICT POLICE CHIEF
PATHANAMTHITTA DISTRICT

W.P. (C) No.20556 of 2018

2

- 7 THE STATION HOUSE OFFICER
VECHOOCHIRA POLCIE STATION, PATHANAMTHITTA.
- 8 DILEEP MATHEW KOLLAMULLA
AGED 47 YEARS
SOUGHT TO BE IMPLEADED
- 9 CHRISTIAN ASSOCIATION AND ALLIANCE FOR SOCIAL
ACTION
SOUGHT TO BE IMPLEADED
- R1 BY GOVERNMENT PLEADER
R1 BY ADV. SRI.RAJAGOPALAN NAIR.K.R. CGC
R1 BY ADV. SRI. SASTHAMANGALAM S. AJITHKUMAR
SPL.P.P. FOR C.B.I.
R1, R4-7 BY SRI.P.NARAYANAN, SR. GOVT. PLEADER
R2 BY ADV. SRI.RAJAGOPALAN NAIR.K.R., CGC
R3 BY ADV. SRI. SASTHAMANGALAM S. AJITHKUMAR,
SPL.P.P. FOR C.B.I.
R8 BY ADV. B.PRAMOD
R9 BY ADV. C.RAJENDRAN
R9 BY ADV. VIJAYAN.K

OTHER PRESENT:

PP T.R.RENJITH; ASG P.VIJAYAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19.02.2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C) No.20556 of 2018

3

JUDGMENT

Dated this the 19th day of February, 2021

Jesna Maria James, a young girl of 20 years doing her IInd year B.Com, has been missing since 22.03.2018. According to her brother, the second petitioner herein, Jesna was at home when he and Jesna's father left for work at about 7.00 a.m. on 22.03.2018. But, when he returned by about 5.00 p.m in the evening, Jesna was not at home and did not reach back even by late night. All efforts to trace out the girl turned futile and thereupon, Jesna's father lodged a complaint at the Police Station, which resulted in a man missing case under Section 57 of the Kerala Police Act (Crime No.201 of 2018) being registered at the Vechoochira Police Station on 23.03.2018. Later, an investigation team headed by the Inspector of

W.P. (C) No.20556 of 2018

4

Police, Ranni was constituted. The local police having failed to make any headway, the writ petition was filed seeking a direction to hand over the investigation to the CBI.

2. Pending the writ petition, the investigation was transferred to the CBCID vide order dated 24.09.2018 of the State Police Chief. On 02.11.2020, an interim direction was issued, requiring the Crime Branch to apprise this Court as to the outcome of the investigation so far conducted and as to whether further investigation is warranted or whether final report is to be submitted and the reasons for taking the said stand.

3. In compliance of the direction, a detailed additional statement has been filed by the Deputy Superintendent of Police, Crime Branch, Pathanamthitta. The statement reflects the sincere

W.P. (C) No.20556 of 2018

5

efforts taken by the Crime Branch to trace out the missing girl, but without success. In the concluding part, it is stated that, being the case of missing of a girl of tender age, the investigating agency is of the view that it is too early to take a decision regarding the completion of the investigation and to file report before the court as undetected. It is stated that it would be possible to gather evidence only through covert investigation, for which a further period of six months is required.

4. On 12.02.2021, this Court had requested the Assistant Solicitor General to go through the statement filed by the Crime Branch and to inform this Court as to whether the investigation could be handed over to the CBI.

5. According to the learned ASGI, the investigation so far conducted indicates of there

W.P. (C) No.20556 of 2018

6

being something serious and intriguing behind the missing of Jesna and also of interstate involvement. It is submitted that the CBI is willing to take over the investigation, if necessary infrastructural support is provided by the State Government. The fair and welcome submission of the learned ASGI is appreciated.

The writ petition is hence disposed of with the following directions:

(i) Respondents 1 and 2 are directed to hand over the case diary and all materials gathered during the investigation of Crime No.201 of 2018 of Vechoochira Police Station to the Superintendent of Police, SPE/CBI, Thiruvananthapuram Unit, forthwith.

(ii) The State Government shall provide adequate infrastructure and logistic support to the CBI for conducting the investigation.

W.P. (C) No.20556 of 2018

7

I hope and wish that, with its forensic expertise and investigation skill, the CBI will be able to unravel the mystery and bring solace to Jesna's family.

Sd/-
V.G.ARUN
JUDGE

Sc1/19.02.2021

W.P. (C) No.20556 of 2018

8

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXT.P1: COPY OF THE FIR IN CRIME NO.201/2018
DATED 23/3/2018
- EXT.P2: COPY OF THE REPRESENTATION SUBMITTED BY
THE 1ST PETITIONER BEFORE THE CHIEF
SECRETARY OF THE STATE OF KERALA DATED
7/6/2018
- EXT.P3: COPY OF THE REPRESENTATION SUBMITTED BY
THE 2ND PETITIONER BEFORE THE CHIEF
SECRETARY OF THE STATE OF KERALA DATED
7/6/2018

RESPONDENT'S/S EXHIBITS:

- EXHIBIT R9 (a) TRUE PHOTOCOPY OF THE SCREENSHOT OF THE
MATHRUBHUMI NEWS CHANNEL.
- EXHIBIT R9 (b) TRUE PHOTOCOPY OF THE NEWS ITEM
PUBLISHED IN THE DESABHIMANI DAILY ON
29/4/2020.
- EXHIBIT R9 (c) TRUE PHOTOCOPY OF THE SCREENSHOT OF THE
MALAYALA MANORAMA NEWS CHANNEL.