

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 24th day of November 2020/3rd Aagrahayana, 1942

WP(C) No.25875/2020(S)

PETITIONER

ANOOP M.K.

RESPONDENTS

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY, LAW DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 039.
3. THE STATE POLICE CHIEF,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695 010.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim order staying the operation and implementation of Exhibit P2 ordinance, pending disposal of the writ petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S S.PRASANTH, N.R.REESHA & VARSHA BHASKAR, Advocates for the petitioner and of SRI.K.K. RAVEENDRANATH, ADDITIONAL ADVOCATE GENERAL, the court passed the following:

rs.

P.T.O.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 24th day of November 2020/3rd Agrahayana, 1942

WP(C) No.25829/2020(S)

PETITIONER

ADV.SUNIL KUMAR K.G.,

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. SECRETARY,
DEPARTMENT OF LAW, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
3. SECRETARY,
DEPARTMENT OF HOME AFFAIRS, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
4. STATE POLICE CHIEF,
KERALA STATE POLICE HEADQUARTERS,
VAZHUTHACAUD P.O., THIRUVANANTHAPURAM-695 010.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation/implementation of Exhibit P1, pending final disposal of the above writ petition (Civil).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S C.G.RAJ KUMAR & JOSE ANTONY, Advocates for the petitioner and of SRI.K.K. RAVEENDRANATH, ADDITIONAL ADVOCATE GENERAL, the court passed the following:

rs.

P.T.O.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 24th day of November 2020/3rd Agrahayana, 1942

WP(C) No.25892/2020(S)

PETITIONER

JOJO JOSE.

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.
2. DEPARTMENT OF LAW,
REPRESENTED BY ITS SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of the impugned section 118A of Kerala Police Act till the disposal of this petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S C.UNNIKRISHNAN, ANANDA PADMANABHAN, GAJENDRA SINGH RAJPUROHIT, MAHESH CHANDRAN, LIYA ELZA ALEX, UTHARA A.S, SANJAY JOHNSON, JOHNSON GOMEZ & S.BIJU, Advocates for the petitioner and of SRI.K.K. RAVEENDRANATH, ADDITIONAL ADVOCATE GENERAL, the court passed the following:

P.T.O.

rs.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 24th day of November 2020/3rd Agrahayana, 1942

WP(C) No.25897/2020(S)

PETITIONER

K. SURENDRAN,

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001.
2. THE SECRETARY TO GOVERNMENT,
LAW (LEGISLATION -E) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of section 118A incorporated through Exhibit P1 notification in the greater interest of justice.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S P.SREEKUMAR, ASWIN KUMAR M.J., HELEN P.A. & SHAHIR SHOWKATH ALI, Advocates for the petitioner and of SRI.K.K. RAVEENDRANATH, ADDITIONAL ADVOCATE GENERAL, the court passed the following:

P.T.O.

rs.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 24th day of November 2020/3rd Agrahayana, 1942

WP(C) No.25793/2020(S)

PETITIONERS

1. SHIBU BABY JOHN.
2. N.K. PREMACHANDRAN.
3. A.A. AZEEZ,

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE ADDITIONAL CHIEF SECRETARY,
HOME DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
3. THE DIRECTOR GENERAL OF POLICE & STATE POLICE CHIEF,
KERALA POLICE, KERALA POLICE HEADQUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695 014.
4. THE DIRECTOR GENERAL OF PROSECUTION,
OFFICE OF THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, KOCHI-682 018.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to:

- 1) Stay the operation of Section 118A of the Kerala Police Act, 2011;
- 2) Restrain the respondents from registering any First Information Reports based on Section 118A of the Kerala Police Act, 2011;
- 3) Direct the respondents to submit the details of the cases registered, if any, in the State of Kerala under Section 118A of the Kerala Police Act, 2011 from 21/11/2020, pending the disposal of this writ petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S SANTHOSH MATHEW, DIVYA SARA GEORGE, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, ARUN THOMAS, JENNIS STEPHEN & VIJAY V. PAUL, Advocates for the petitioners and of SRI.K.K. RAVEENDRANATH, ADDITIONAL ADVOCATE GENERAL, the court passed the following:

rs.

P.T.O.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 24th day of November 2020/3rd Agrahayana, 1942

WP(C) No.25887/2020(S)

PETITIONER

NANDINI PRAVEEN,

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF LAW, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. PRINCIPAL SECRETARY, DEPARTMENT OF LAW,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation and implementation of the Kerala Police (Amendment) Ordinance, 2020.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S KALEESWARAM RAJ, A.ARUNA, THULASI K. RAJ, MAITREYI SACHIDANANDA HEGDE & VARUN C.VIJAY, Advocates for the petitioner and of SRI.K.K. RAVEENDRANATH, ADDITIONAL ADVOCATE GENERAL, the court passed the following:

rs.

P.T.O.

S.MANIKUMAR, C.J. & SHAJI P. CHALY, J.

**W.P.(C)Nos.25793, 25829, 25892, 25897,
25887, 25875 of 2020**

Dated this the 24th day of November, 2020

ORDER

S.MANIKUMAR, C.J.

All these writ petitions are filed against the operation and implementation of the Kerala Police (Amendment) Ordinance, 2020. Petitioners herein challenges the constitutional validity of Section 118A inserted in the Kerala Police Act, 2011 and seeks for a declaration that Section 118A of the Kerala Police Act, 2011 is unconstitutional since the same is violative of Articles 14, 19(1)(a), and 21 of the Constitution of India. Impugned ordinance is reproduced hereunder:

**GOVERNMENT OF KERALA OF KERALA
Law (Legislation-E) Department
NOTIFICATION**

No. 15312/Leg.E1/2020/Law Dated, Thiruvananthapuram, 21st November, 2020
6th Vrischikam, 1196
30th Karthika, 1942.

In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor of Kerala is pleased to authorise the publication in the Gazette of the following translation in English language of the Kerala Police (Amendment) Ordinance, 2020 (79 of 2020).

By order of the Governor,

**ARAVINTHA BABU P. K.,
Law Secretary.**

W.P.(C)Nos.25793, 25829, 25892, 25897,
25887, 25875 of 2020

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[Translation in English of "2020-ലെ കേരള പോലീസ് (ഭേദഗതി) ഓർഡിനൻസ്" published under the authority of the Governor.]

ORDINANCE NO. 79 OF 2020

THE KERALA POLICE (AMENDMENT) ORDINANCE, 2020

Promulgated by the Governor of Kerala in the Seventy-first Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Police Act, 2011.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Police Act, 2011 (8 of 2011) for the purposes hereinafter appearing;

AND WHEREAS, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Kerala Police (Amendment) Ordinance, 2020.

(2) It shall come into force at once.

2. *Act 8 of 2011 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Police Act, 2011 (8 of 2011) (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3 and 4.

W.P.(C)Nos.25793, 25829, 25892, 25897,
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3. *Amendment of section 118.*—In the principal Act, after section 118, the following section shall be inserted, namely:—

"118 A. *Punishment for making, expressing, publishing or disseminating any matter which is threatening, abusive, humiliating or defamatory.*—Whoever makes, expresses, publishes or disseminates through any kind of mode of communication, any matter or subject for threatening, abusing, humiliating or defaming a person or class of persons, knowing it to be false and that causes injury to the mind, reputation or property of such person or class of persons or any other person in whom they have interest shall on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both."

4. *Amendment of section 125.*—In sub-section (1) of section 125 of the principal Act, after the figures and symbol "118," the figures, letter and symbol "118A," shall be inserted.

ARIF MOHAMMED KHAN,
GOVERNOR.

On this day, when the matter came up for hearing, Mr.K.K.Raveendranath, learned Additional Advocate General, submitted that Government is reconsidering the ordinance and no adverse action, or registration of FIR on receipt of any complaint or suo motu cognizance will be taken by the police, till the Government takes a final decision. Mr.K.K.Raveendranath, Additional Advocate General seeks time to get appropriate instructions in the matter.

W.P.(C)Nos.25793, 25829, 25892, 25897,
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Submission of the learned Additional Advocate General is placed on record and to be honoured.

Post these writ petitions on 25.11.2020.

Sd/-
S.MANIKUMAR,
CHIEF JUSTICE

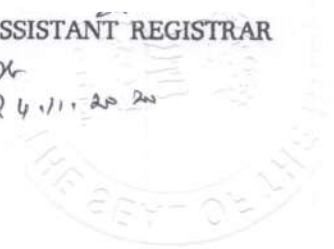
Sd/-
SHAJI P.CHALY
JUDGE

-TRUE COPY-

ASSISTANT REGISTRAR

X
24.11.2020

jes



WP(C) No.25875/2020(S)

EXHIBIT P2 - TRUE COPY OF THE KERALA POLICE (AMENDMENT) ORDINANCE, 2020
(79 OF 2020) PUBLISHED VIDE NOTIFICATION NO.15312/LEG.E1/2020/LAW

WP(C) No.25829/2020(S)

EXHIBIT P1 - TRUE COPY OF THE KERALA POLICE (AMENDMENT) ORDINANCE, 2020
PUBLISHED IN KERALA GAZETTE EXTRAORDINARY BEARING NO.2859
DATED 21.11.2020.

WP(C) No.25897/2020(S)

EXHIBIT P1 - A TRUE COPY OF THE NOTIFICATION DATED 21.11.2020
ISSUED BY THE 1ST RESPONDENT.