

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K. BABU

TUESDAY, THE 2ND DAY OF APRIL 2024 / 13TH CHAITHRA, 1946

WP(CRL.) NO. 358 OF 2024

CRIME NO.18/2018 OF ALUVA EXCISE RANGE OFFICE, ERNAKULAM

PETITIONER:

SHAJI K. V.,
AGED 54 YEARS,
S/O. VELAYUDHAN K.V., AMPALAKKANDI,
PULLIPARAMBA, CHELEMBRA P.O.,
MALAPPURAM DISTRICT, PIN - 673634

BY ADVS.

C.M.MOHAMMED IQUBAL
P.ABDUL NISHAD
RAIHANATH T.H.
ISTINAF ABDULLAH
MUHAMMED AMEEN
ANGEL MARY GEORGE

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE HOME
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 3 THE DISTRICT POLICE CHIEF (ERNAKULAM RURAL),
DISTRICT POLICE OFFICE,
POWER HOUSE JUNCTION, SUB JAIL ROAD,
PERIYAR NAGAR, ALUVA,
ERNAKULAM DISTRICT, PIN - 683101
- 4 THE STATION HOUSE OFFICER,
ALUVA POLICE STATION, ALUVA P.O.,
ERNAKULAM DISTRICT, PIN - 683101
- 5 THE CIRCLE INSPECTOR OF EXCISE,
ALUVA EXCISE CIRCLE OFFICE,
NEAR MINI CIVIL STATION ROAD, ALUVA,
ERNAKULAM DISTRICT, PIN - 683101
- 6 THE EXCISE RANGE OFFICER,
ALUVA EXCISE CIRCLE OFFICE,
NEAR MINI CIVIL STATION ROAD, ALUVA,
ERNAKULAM DISTRICT, PIN - 683101
- 7 MR. ROBEN GILBERT ADIMURI XAVIER,
S/O. XAVIER ADIMURI RAPHAEL, ADIMURI HOUSE,
PALARIVATTOM SOUTH,
ERNAKULAM DISTRICT, PIN - 682025



- 8 MR. ALBERT SANTHOSH
S/O. A.R.JOSE, ALAPPATT HOUSE, P.J.ANTONY ROAD,
PALARIVATTOM, ERNAKULAM DISTRICT, PIN - 682025
- 9 MR. RONY SIJO,
S/O. XAVIEN, ADIMURI HOUSE, PALARIVATTOM SOUTH,
ERNAKULAM DISTRICT, PIN - 682025
- 10 MR. SREENATH,
S/O. K.K.VISWANATH, PUNNAKATTIL HOUSE,
ASRAMAM ROAD, KALADY,
ERNAKULAM DISTRICT, PIN - 679582
- 11 MR. DENNIS RAPHAEL,
S/O. RAPHAEL, BALYAPADATH HOUSE, THAIKATTUKARA,
CHOORNIKKARA, ALUVA TALUK, ERNAKULAM DISTRICT,
PIN - 683546
- 12 MR. P.V.ANWER,
MANAGING DIRECTOR,
M/S. PEEVEES REALTORS PRIVATE LIMITED, 501,
OPPANEKKARA STREET, COIMBATORE, PIN - 641001
- 13 MR.ALI AKBAR,
S/O. ABDUL SALAM, HASEEN GARDEN, THAIKATTUKARA,
CHOORNIKKARA P.O., ALUVA TALUK,
ERNAKULAM DISTRICT, PIN - 683546

BY ADV

SRI.G.SUDHEER, PUBLIC PROSECUTOR

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 02.04.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



K.BABU, J.

W.P(Crl).No.358 of 2024

Dated this the 2nd day of April, 2024

JUDGMENT

The prayers in this Writ Petition (Criminal) filed under Article 226 of the Constitution of India are as follows:

- “(i) Issue a Writ of Mandamus or any other appropriate writ, order or direction directing the 2nd respondent to order proper enquiry regarding the incident mentioned in Ext. P1 report, within a time stipulated by this Hon’ble Court. .
- (ii) Issue a Writ of Mandamus or any other appropriate writ, order or direction directing 2nd respondent to consider and pass appropriate orders on Ext. P3 representation, within a time stipulated by this Hon’ble Court.
- (iii) Pass an order dispensing with the production of English Translation of documents in Vernacular language at the time of filing the writ petition.
- (iv) Pass any other appropriate writ, order or direction which this Hon’ble Court may deem fit to issue and petitioner may pray from time to time.”

2. The petitioner is a social worker. On 08.12.2018 at 11.30 p.m the Circle Inspector of Excise, Aluva conducted a search in the building namely 'Joy Mathew Club' near Central Juma Masjid Madrassa, Malekkappadi. The building belongs to respondent No.12 and is in the possession of respondent No.13. The Excise party seized 19 litres of Indian Made Foreign Liquor and 6.5 litres of beer.



The Excise Department registered Crime No.18/2018 alleging offences punishable under Sections 55(a) and 55(i) of the Abkari Act.

3. Heard both sides.

4. The case of the petitioner is that the owner and custodian of the building allowed the storing of liquor and sale of the same in violation of the provisions of the Abkari Act. It is submitted that the owner and custodian of the building committed the offences punishable under Section 64A of the Abkari Act. It is further submitted that the Excise official who conducted the investigation deliberately avoided the owner and custodian from the array of the accused due to political influence. The petitioner had submitted Ext.P3 representation before respondent No.2 seeking enquiry into the allegations. It is submitted that respondent No.2 has not taken any steps in Ext.P3 representation.

5. Having considered the submissions on both sides, respondent No.2 is directed to consider Ext.P3 and take appropriate decision within a period of four weeks from the date of production of a certified copy of this judgment. The petitioner is given the



liberty to approach this Court in respect of the subject matter, if he is advised so.

The Writ Petition (Criminal) is disposed of as above.

Sd/-
K.BABU,
JUDGE

KAS



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APPENDIX OF WP (CRL.) 358/2024

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE CRIME AND OCCURRENCE REPORT FILED BY THE 5TH RESPONDENT DATED 09.12.2018
- Exhibit P2 THE TRUE COPY OF THE CHARGE SHEET IN C.R.NO.18/2018 OF ALUVA EXCISE RANGE DATED 01.12.2021
- Exhibit P3 THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 15.01.2024
- Exhibit P4 THE TRUE COPY OF THE ORDER OF CONFIRMATION OF SALE OF IMMOVABLE PROPERTY ISSUED BY THE DEBT RECOVERY TRIBUNAL, DELHI DATED 16.10.2006
- Exhibit P5 THE TRUE COPY OF THE JUDGMENT IN W.P. (C).NO.13627/2007 OF THIS HON'BLE COURT DATED 25.07.2013

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