

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 30TH DAY OF SEPTEMBER 2022 / 8TH ASWINA, 1944

WP(C) NO. 27257 OF 2022

PETITIONER:

RAJI
AGED 33 YEARS
W/O RAJAN, PUNNAVILA VEEDU, THRIKKOVILVATTOM VILLAGE,
KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
BY ADV M.RAJESH

RESPONDENTS:

- 1 CITY POLICE COMMISSIONER
OFFICE OF THE COMMISSIONER OF POLICE, CHINNAKKADA PO,
KOLLAM-601 001.
- 2 THE STATION HOUSE OFFICER
KANNANALLOOR POLICE STATION, KANNANALLOOR PO, KOLLAM-
691 576.
- 3 THULASI
AGED 35 YEARS
S/O ARJUNAN ACHARI, PUNNAVILA VEEDU, THRIKKOVILVATTOM
VILLAGE, KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 4 ANITHA
AGED 26 YEARS
W/O THULASI, PUNNAVILA VEEDU, THRIKKOVILVATTOM VILLAGE,
KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 5 MURUKAN
AGED 48 YEARS
S/O ARJUNAN ACHARI, PUNNAVILA VEEDU, THRIKKOVILVATTOM
VILLAGE, KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 6 BINDU
AGED 40 YEARS
W/O MURUKAN, PUNNAVILA VEEDU, THRIKKOVILVATTOM VILLAGE,
KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 7 VINEETH
AGED 20 YEARS
S/O MURUKAN, PUNNAVILA VEEDU, THRIKKOVILVATTOM VILLAGE
KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 8 DINESH
AGED 22 YEARS
S/O MURUKAN, PUNNAVILA VEEDU, THRIKKOVILVATTOM VILLAGE,
KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 9 SHINI
AGED 26 YEARS

- W/O SHAIJU, JANARDANA SADANAM, THRIKKOVILVATTOM
VILLAGE, KANNANALLOOR PO, KOLLAM (DIST)- 691 576.
- 10 VIJAYAMMA
AGED 55 YEARS
W/O THULASI, MULLUVILA VEEDU, PUTHOOR VILLAGE,
THEVALAPPURAM PO, KOLLAM (DIST)-691 507.
- 11 SHEEJA
AGED 29 YEARS
W/O RAJESH, RESHMA BHAVANAM, NEAR ILANKATHUVELI
TEMPLE, MEDAYILMUKKU, THIRUMULLAVARAM PO, KOLLAM-691
012.
- 12 ANEESH
AGED 35 YEARS
CHARUVILA VEEDU, THRIKKOVILVATTOM VILLAGE,
KANNANALLOOR PO, KANNANALLOOR CHERRY, KOLLAM (DIST)-
691 576.
BY ADVS.
R.SUDARSANA DEVI
SWARAJ S.
BY SRI.T.K.SHAJAHAN-SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 30th day of September, 2022

This writ petition is filed seeking the following reliefs:

"i) Issue a Writ of Mandamus or any other appropriate writ, order or direction commanding the respondents 1 & 2 to afford adequate and sufficient police protection to the life and property of the petitioner and her family against the threat of the respondents 3 to 12.

ii) issue a writ of mandamus, order or direction or any other appropriate writ directing respondents 1 & 2 to take appropriate action upon Ext P1 & P3 complaints including registration of FIR's, within a time limit to be fixed by this Hon'ble court."

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned counsel appearing for respondents 5 to 8 and 12 as well as the learned counsel appearing for the 9th respondent.

3. It is submitted by the learned counsel for the petitioner that 4th, 6th, 9th, 10th and 12th respondents were engaged in money lending business and the petitioner had obtained financial

assistance from them during the Covid pandemic. It is submitted that though certain amounts had been repaid by the petitioner, the said respondents as well as the other party respondents, who are the petitioner's relatives and henchmen have been constantly harassing the petitioner and the petitioner is even unable to reside in her own property due to the threat to life by the said respondents. It is contended that complaints had been preferred before the police, but no action has been taken on the same.

4. A counter affidavit has been placed on record by respondents 5, 6, 7 and 8 stating that the respondents in question are not money lenders and that the petitioner is a crooked woman, who has defrauded and cheated them of various amounts, in the guise of getting loans or other financial assistance from financial institutions. It is

submitted that when re-payment was demanded, the petitioner started insulting and abusing the contesting respondents and that the writ petition is an exercise to escape from the civil and criminal liability of having to repay the amounts borrowed or dishonestly appropriated by the petitioner. Exhibit R6(1) receipt with regard to payment of a loan as well as Exhibit R6(2) promissory note and Exhibit R6(3) complaint are produced in evidence of the contentions.

5. The 9th respondent has also filed a counter affidavit stating that an amount of Rs.10,00,000/- had been obtained by the petitioner, who is the relative of the 9th respondent, stating that it will be repaid in instalments. It is contended that cheques have been issued by the petitioner for repayment of the amounts. But the cheques have been dishonoured and that a case has been filed

under Section 138 of the Negotiable Instruments Act, 1881 before the Judicial First Class Magistrate Court-II, Kottarakkara against the petitioner and the same is still pending.

6. The 12th respondent has also filed a counter affidavit stating that he is not engaged in any money lending business and that the petitioner has defrauded him of Rs.1,50,000/-.

7. The learned Government Pleader would submit that on the basis of the complaint submitted by the petitioner, the parties were summoned to the police station and were advised not to create any law and order issues.

8. Having considered the contentions advanced, I notice that apart from stating that the petitioner has defrauded them of large amounts, the respondents have no case that any civil case is filed or any complaint with regard to the cheating

allegedly done by the petitioner has been lodged before the police. In case of any complaint with regard to any cheating by the petitioner, it is for the respondents to approach the appropriate authorities with proper complaints which can be looked into, in accordance with law. In any view of the matter, the respondents cannot claim that they have any right to assault or harass the petitioner.

9. The learned counsel for the respondents submits that no harassment has been meted out to the petitioner by the contesting party respondents. It is further contended by the learned counsel for the respondents that the petitioner has approached this Court with unclean hands and therefore would not be entitled to any relief in this writ petition. Reliance was placed on a judgment of a Division Bench of this Court in W.A.No.1513 of 2020.

However in view of the fact that the

petitioner contends that she is facing severe harassment, I am of the opinion that the question with regard to recovery of any amounts from the petitioner has to be decided, in accordance with law, in appropriate proceedings. In case of any overt acts by any of the party respondents threatening the life of the petitioner, the petitioner may inform the Station House Officer, who shall afford adequate protection to the life of the petitioner. This will be without prejudice to the rights of the respondents to approach the competent for realisation of amounts, if any, due as also their right to prefer complaints before the appropriate authorities, including the police which shall be investigated in accordance with law.

**Sd/-
ANU SIVARAMAN
JUDGE**

APPENDIX

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE COMPLAINT DATED 19.07.2022 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
Exhibit P2	THE TRUE COPY OF THE POSTAL ACKNOWLEDGMENT CARD RECEIVED FROM THE 2ND RESPONDENT IN RESPECT OF EXHIBIT-P1 COMPLAINT.
Exhibit P3	THE TRUE COPY OF THE COMPLAINT DATED 23.07.2022 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
Exhibit P4	THE TRUE COPY OF THE POSTAL ACKNOWLEDGMENT CARD RECEIVED FROM THE 1ST RESPONDENT IN RESPECT OF EXHIBIT-P3.

RESPONDENT EXHIBITS

Exhibit R6(1)	TRUE COPY OF LOAN RECEIPT FROM THE QUILON CO-OP URBAN BANK LTD., AYATHIL BRANCH, KOLLAM.
Exhibit R6(2)	TRUE COPY OF THE PROMISSORY NOTE EXECUTED BY THE PETITIONER IN FAVOUR OF RESPONDENT NO.6.
Exhibit R6(3)	TRUE COPY OF THE POLICE COMPLAINT FILED BEFORE SHO, KANNANALLUR POLICE STATION, KOLLAM.
Exhibit R6(4)	TRUE COPY OF THE COMPLAINT RECEIPT RECEIVED FROM KANNANALLUR POLICE STATION, KOLLAM DATED 27-08-2022.

SSK

//TRUE COPY//

PA TO JUDGE