



2025:KER:88675

WP(C)No. 9494 of 2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.M.MANOJ

TUESDAY, THE 14<sup>TH</sup> DAY OF OCTOBER 2025 / 22ND ASWINA, 1947

WP(C) NO. 9494 OF 2019

PETITIONERS:

- 1 V.K.THAJUDHEEN  
AGED 43 YEARS  
S/O. JAMEEL, EMPLOYED ABROAD, RESIDING AT ALMANAR, J.T  
ROAD, NEAR SAIDAR PALLI THALASSERY, NOW RESIDING AT  
THAJNAS, KAVU ROAD, C.H. NAGAR, POST PULLIYODE-670642,  
EAST KADIRUR, THALASSERY, KANNUR DISTRICT.
- 2 NASREENA V.K,  
AGED 38 YEARS  
W/O. THAJUDHEEN, RESIDING AT THAJNAS, KAVU ROAD, C.H.  
NAGAR, POST PULLIYODE EAST, KADIRUR-670642, THALASSERY,  
KANNUR DISTRICT,
- 3 MOHAMMED THEZIN JAMEEL,  
AGED 19 YEARS  
S/O. THAJUDHEEN, RESIDING AT THAJNAS, KAVU ROAD, C.H.  
NAGAR, POST PULLIYODE EAST, KADIRUR-670642, THALASSERY,  
KANNUR DISTRICT,
- 4 FATHIMATHU THAZLEENA,  
AGED 20 YEARS  
D/O. THAJUDHEEN, HOUSE WIFE, RESIDING AT THAJNAS, KAVU  
ROAD, C.H. NAGAR, POST PULLIYODE EAST, KADIRUR-670642,  
THALASSERY, KANNUR DISTRICT,
- 5 MOHAMMED TAZEEM JAMEEL,  
AGED 7 YEARS  
S/O. THAJUDHEEN(MINOR) REPRESENTED BY HIS NEXT FRIEND  
NO.1, V.K. THAJUDHEEN, AGED 43 YEARS, S/O. JAMEEL,  
RESIDING AT THAJNAS, KAVU ROAD, C.H. NAGAR, POST  
PULLIYODE EAST, KADIRUR-670642, THALASSERY, KANNUR  
DISTRICT,

BY ADVS. SRI.T.ASAFALI  
SMT.LALIZA.T.Y.



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RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695001.
- 2 MR. P. BIJU,  
S.I. POLICE, CHAKKARAKKAL POLICE STATION, KANNUR,  
DISTRICT, KERALA NOW WORKING AS S.I. OF POLICE, TRAFFIC  
POLICE STATION, KANNUR-670001.
- 3 MR.YOGESH,  
ASI, CHAKKARAKKAL POLICE STATION, CHAKKARAKAL-670613,  
KANNUR DISTRICT, KERALA.
- 4 MR.T. UNIIKRISHNAN,  
ASI, CHAKKARAKKAL POLICE STATION, KANNUR DISTRICT,  
PIN-670613.
- 5 THE STATE POLICE CHIEF.  
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.
- 6 THE DEPUTY SUPDT. OF POLICE,  
KANNUR-670001.

BY ADVS. SRI.GRACIOUS KURIAKOSE, ADGP  
SRI.C.K. SURESH  
SRI.SUMAN CHAKRAVARTHY, SENIOR GOVT.PLEADER  
SRI.P.VIJAYA BHANU (SR.)  
SRI.SHANAVAS NALAKATH RANDUPURAYIL  
SRI.AJEESH K.SASI  
SMT.POOJA PANKAJ  
SRI.P.M.RAFIQ  
SRI.M.REVIKRISHNAN  
SRI.VIPIN NARAYAN  
SRI.V.C.SARATH  
SRUTHY N. BHAT  
SRI.Y. JAFAR KHAN, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
14.10.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**P.M. MANOJ, J**

**CR**

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WP(C) No. 9494 of 2019  
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Dated this the 14<sup>th</sup> day of October, 2025

### **JUDGMENT**

This case is about an untold misery of a father who returned to his motherland on a short leave of 15 days to conduct his daughter's marriage. During that period, he was implicated in a criminal case of chain snatching, arrested, and placed under judicial custody for a period of 54 days. This ordeal finally resulted in another 23 days of imprisonment in Qatar for failure to report for duty, and he also lost his job. Seeking compensation, he and his family members have filed this writ petition on the ground that his right to life, guaranteed under Article 21 of the Constitution, was violated.

2. The writ petition is preferred by the victim, his wife, and their three children regarding the unfortunate incident as stated above. The petitioners' case is that the 1<sup>st</sup> petitioner had been employed abroad for many years, working in an establishment dealing with 'rent-a-car' services. On June 25, 2018, he returned to his native



place for a short leave of 15 days to conduct the marriage of the 4<sup>th</sup> petitioner.

3. On 11.07.2018, on their way home from the 1<sup>st</sup> petitioner's sister's house, a police party led by the 2<sup>nd</sup> respondent intercepted the petitioners' car at Kadirur, near their residence. The petitioners were asked to assist the police in lifting their jeep, which was stuck in the mud. They accordingly assisted in lifting the vehicle. However, the 1<sup>st</sup> petitioner, who remained seated in the car due to back pain, was insisted by the police to come out. Despite the other petitioners' intimation that he was suffering from back pain, respondents 2 and 3 dragged him out of the car and forcefully took photographs of him on their mobile phones. Since this occurred around 1:13 a.m., an unusual hour, petitioners 2 to 4 questioned the respondents' attempt. In response, respondents 2 and 3 openly declared that "he is a thief" and threatened the petitioners that if the 1<sup>st</sup> petitioner did not confess the truth, he would be treated severely and face dire consequences. Later, they were all taken to the Chakkarakkal Police Station in the police vehicle during those early morning hours. When they reached the police station, the 2<sup>nd</sup> respondent, with the



assistance of respondents 3 and 4, took the petitioners inside and showed them CCTV footage of a bearded man. They then shouted at the petitioners, accusing the 1<sup>st</sup> petitioner of having snatched a woman's gold chain while riding a white scooter at a place called Choorakkalam.

4. It is stated that the petitioners affirmatively denied the allegation. Although the petitioners questioned the intention of respondents 2 to 4 in attempting to implicate the 1<sup>st</sup> petitioner in such a crime, the respondents compelled them to confess guilt without offering any explanation. The petitioners, however, pleaded not guilty, asserting that the 1<sup>st</sup> petitioner was totally innocent, had never been involved in any case in his life, and was a person of good antecedents, belonging to a respectable family, and leading an unblemished life. Such pleadings were not heeded by respondents 2 to 4. Instead, they responded with abusive epithets and shouted at the 1<sup>st</sup> petitioner, declaring, "You are a thief... a notorious thief." Later, it was informed that he would be implicated in a chain snatching case and arrested. The respondents even went to the



extent of threatening the other petitioners that they too would be implicated in various criminal cases.

5. Despite the requests of the other petitioners, the arrest of the 1<sup>st</sup> petitioner in the chain-snatching case was recorded on 11.07.2018, by the 2<sup>nd</sup> respondent. An amount of Rs. 56,000/- and the 1<sup>st</sup> petitioner's passport were seized from his possession. Furthermore, a G-Shock watch was seized from the possession of the 3<sup>rd</sup> petitioner, and all of them were compelled to sign blank papers. Their resistance was met with physical and mental torture by the police. The 1<sup>st</sup> petitioner was stripped and subjected to physical and mental torture in the presence of the other petitioners, which resulted in intolerable mental shock, agony, trauma, pain, and suffering.

6. Later, it was revealed that a crime under Section 392 IPC had been registered, and the 1<sup>st</sup> petitioner has been arrested in connection with — a gold chain-snatching case. The alleged crime was stated to have occurred on 05.07.2018, at about 12:15 p.m., involving the snatching of a chain weighing 5½ sovereigns (worth Rs. 1,20,000/-) from one Raghi C.K., a resident of Thalassery, by a



person riding a scooter. The petitioners came to know that the 1<sup>st</sup> petitioner was alleged to be the accused in that case. The other petitioners offered explanations regarding the 1<sup>st</sup> petitioner's whereabouts, the purpose of his visit to his homeland and his lack of any criminal antecedents, but these were not taken into account. It was also submitted by the petitioners that, at the alleged time (around 11:15 a.m.), the 1<sup>st</sup> petitioner was at Kadiroor in connection with the arrangements for the 4<sup>th</sup> petitioner's marriage and thereafter, he was at his residence along with the other petitioners. The impossibility of the 1<sup>st</sup> petitioner being at the crime spot, which is 11 Kilometres (KMs) away from their residence, was raised to prove his innocence in the alleged matter. Their request for Call Data Records (CDRs), tower location information, and the expert examination of the CCTV footage was completely declined.

7. The petitioners' contention that there existed a substantial difference between the identity of the person seen in the CCTV footage and that of the 1<sup>st</sup> petitioner fell on deaf ears. The police were not ready to examine the possibility of mistaken identity



between the 1<sup>st</sup> petitioner and the real culprit. Consequently, the arrest was recorded without conducting a proper investigation.

8. Later, the 1<sup>st</sup> petitioner was produced before the Chief Judicial Magistrate Court, Thalassery, and remanded to judicial custody initially for 14 days. In the remand report, it was stated that he was the person alleged to have snatched the complainant's gold chain, as ascertained from the CCTV installed on the roadside of the crime scene and from neighbouring houses. Such a report was the aftermath of serious illegality and wrong committed by respondents 2 to 4 in scrutinising the CCTV footage of the crime scene, nearby houses, and business establishments. Even the petitioners' doubt regarding the identity of the person seen in the CCTV footage compared to the 1<sup>st</sup> petitioner was completely ignored. Had the aforementioned respondents taken a little care and caution in re-analysing the materials collected by them—especially after the other petitioners contended that the 1<sup>st</sup> petitioner's involvement in such an act was impossible—the entire situation could have been avoided.



9. This ultimately led to the harassment and humiliation of the 1<sup>st</sup> petitioner in particular and the rest of the petitioners at large. The 1<sup>st</sup> petitioner was taken to the scene of the occurrence, a place called 'Choorakkalam,' in a police jeep for the purpose of taking evidence. He was then paraded through the public road by the police in the presence of hundreds of people. As a result, the 1<sup>st</sup> petitioner had to face the *wrath of public*, being viewed and ridiculed as a notorious chain snatcher, with the public yelling at him as a "thief." This entire incident amounted to great mental shock, insult, and harassment. He was also taken to his parental house at Thalassery in the presence of hundreds of people in the locality. Then, he was taken to his sister's house at Azhiyur in Kozhikode District, where he was demonstrated before a large number of people. He was also taken to another sister's house under the pretext of recovering the white scooter that the accused in the case was alleged to have used for the commission of the crime. However, no such scooter was seized by the police from any of the places they had taken the 1<sup>st</sup> petitioner. Thereafter, he was taken to Atlas Jewellery, Thalassery, where he was again paraded before the public. Subsequently, he was taken to



the house of his friend, Sameer, near the Panoor Police Station, after giving wide publicity to the action. Even then, nothing was seized or recovered, either from the 1<sup>st</sup> petitioner or from any of the places where he was taken to, or from any other person connected with him. Finally, he was produced before the Chief Judicial Magistrate Court, Thalassery, at 4:30 p.m. on 20.07.2018.

10. Though the 1<sup>st</sup> petitioner had approached the CJM Thalassery twice, and then the Sessions Court, Thalassery for bail, his attempts were unsuccessful. Ultimately, bail was granted by this Court on 30.08.2018 with a condition that he shall not leave India without prior permission of the Court. Hence, he was prevented from resuming his job abroad.

11. Even in the absence of any recovery of the material object—specifically, the 5½ sovereigns of gold chain stated to have been snatched from the complainant—or the scooter alleged to have been used for committing the crime, respondents 2 to 4 took no steps to absolve him from the charges, even after custodial interrogation. Instead of conducting a thorough and foolproof investigation using scientific methods, the police resorted to mere guesswork to



implicate the petitioner. Even the request of the other petitioners to resort to scientific evidence, such as analysis of the Call Data Records (CDRs) and tower location information, was completely ignored.

12. Subsequently, while the 1<sup>st</sup> petitioner was in judicial custody, the 2<sup>nd</sup> petitioner submitted a complaint to the Chief Minister seeking his intervention in the matter. This led to the appointment of the 6<sup>th</sup> respondent to conduct a thorough investigation and file a report before the Chief Judicial Magistrate, Thalassery, exonerating the 1<sup>st</sup> petitioner of all charges.

13. The investigation report of the Dy.S.P., produced as Ext.P8, reveals that lapses occurred on the part of respondents 2 to 4 in arresting the 1<sup>st</sup> petitioner and in verifying the petitioners' plea of innocence. It explains the improbability of such events on the premise that the 1<sup>st</sup> petitioner came to his native place on a 15 days' leave to conduct the marriage of his daughter. Certain witnesses acknowledged his presence near Kadirur at 11.15 a.m. on 05.07.2018, the time of occurrence of the crime, along with his family. The Call Detail Records (CDR) of mobile number '9847798824' reveal that the device was used to contact a



beautician, Smt. Sajitha K.P., at 11:47:50 a.m. and 11:49:36 a.m. on 05.07.2018. She also deposed that the 1<sup>st</sup> petitioner spoke to her in person at that time, rendering it impossible for him to have reached the crime spot by 12:15 p.m. Furthermore, the mobile tower location data corroborates the petitioners' plea that the 1<sup>st</sup> petitioner was at his residence at 12:15 p.m. on 05.07.2018, a location situated 11 km away from the scene of occurrence. The report also highlights a material discrepancy regarding the description of the accused, specifically the wearing of a bangle. This is inconsistent with the 1<sup>st</sup> petitioner's identity, as he is a follower of 'Islam' and does not customarily wear such ornaments. Furthermore, the mark found on the forehead of the accused does not match that of the 1<sup>st</sup> petitioner. It is also stated that the video footage lacks sufficient clarity to enable a positive identification.

14. The report further points out certain facts in favour of the investigating officer. The complainant in her statement given under Section 164 Cr.P.C., identified the photo as that of Thajudeen, the 1<sup>st</sup> petitioner herein. Similarly, in another chain-snatching case, the complainant had identified Thajudeen as the culprit. Therefore, the



arrest made by the 2<sup>nd</sup> respondent was in good faith, considering the circumstantial evidence. However, it also says that, in view of the further evidence collected by the 6<sup>th</sup> respondent during the investigation, the credibility of the statement of the witness or complainant cannot be accepted.

15. As a direct consequence of his arrest and detention, the 1<sup>st</sup> petitioner was prevented from reporting for duty within the permissible period of leave. Although he had arrived on 25.06.2018 on a 15 days' leave with a Visa valid upto 03.03.2019, he was able to report for duty only on 25.01.2019. Consequently, the authorities of the Ministry of Interior in Qatar registered a case against him for absconding. This resulted in his arrest and detention in Qatar for a period of 23 days, after which he was deported to India.

16. All these losses and sufferings occurred to the 1st petitioner and his family due to the callous attitude of respondents 2 to 4 in the discharge of their duties. Hence, they are liable to be proceeded against in accordance with law. Ext.P8 report itself sheds light on the inefficiencies of respondents 2 to 4 in conducting a proper investigation. Moreover, the further report submitted by the 6<sup>th</sup>



respondent recommending departmental action against the 2<sup>nd</sup> respondent also points out the errors committed by him, especially the faults identified by the 6th respondent in the Ext.P14 report.

Relevant portion of Ext.P14 reads as follows :

“ഈ കാര്യത്തിൽ എസ്.ഐയുടെ ഭാഗത്ത് നിന്ന് താഴെ പറയുന്ന വീഴ്ചകൾ ഉണ്ടായിട്ടുണ്ട്.

1) പ്രതി നിരപരാധിയാണെന്ന് വാദിച്ചതിനാൽ സംഭവത്തിലുൾപ്പെട്ട വെള്ള സ്കൂട്ടറും, മോഷണ മുതലായ മാലയും കണ്ടെടുക്കാൻ കഴിയാത്ത സാഹചര്യത്തിൽ മേലുദ്യോഗസ്ഥനായ ഞാൻ സ്റ്റേഷനിലേക്ക് വരുന്നുണ്ട് എന്ന് അറിയിച്ചിട്ടും ഞാനെന്തും മുമ്പേ പ്രതിയുടെ അറസ്റ്റ് രേഖപ്പെടുത്തിയത് തിടുക്കപ്പെട്ട നടപടിയായി പോയി.

2) CCTV വിഷ്വലിൽ സംഭവസ്ഥലത്ത് നിന്നും രക്ഷപ്പെട്ട് പോകുന്ന ആൾക്ക് താജുദ്ദീനെക്കൊളും കൂടുതൽ തടി തോന്നിക്കുന്നു എന്നും, ടിയാൻറെ കൈയ്യിൽ സ്റ്റീൽ വള ധരിച്ചു കാണുന്നത് സംശയമുണ്ടാക്കുന്നുണ്ടെന്നും മറ്റും ഞാൻ എസ്.ഐയുടെ ശ്രദ്ധയിൽപ്പെടുത്തിയപ്പോൾ അത് ക്യാമറയുടെ പ്രശ്നമാണെന്ന് പറഞ്ഞ് ഗൗരവത്തിലെടുക്കാതിരിക്കുന്നത് അന്വേഷണ ഉദ്യോഗസ്ഥൻ എന്ന നിലയിൽ സൂക്ഷ്മമായി കാര്യങ്ങൾ വിലയിരുത്താനുള്ള പ്രാപ്തിക്കുറവായി വിലയിരുത്തേണ്ടിവരും.

3) നസ്രീനയുടെ പരാതിയിൽ പറയുന്ന കാര്യങ്ങൾ ഞാൻ പരിശോധിച്ചതിൽ മേൽ പരാമർശിച്ച പ്രകാരം താജുദ്ദീൻ നിരപരാധിയാണോയെന്ന സംശയം നിലനിൽക്കുന്നതിനാലും, സംഭവത്തിൻ്റെ നിജസ്ഥിതിയെ സംബന്ധിച്ച് പെട്ടെന്ന് നിഗമനത്തിലെത്താൻ പ്രയാസകരമായതും, സങ്കീർണ്ണമുള്ളതുമായ സാഹചര്യം നിലനിൽക്കുന്നതിനാലും, അക്കാര്യം ബഹു. കോടതിയുടെ ശ്രദ്ധയിൽപ്പെടുത്തി പ്രതി ജാമ്യത്തിൽ



പോകുന്നതായിരിക്കും ഗുണകരമെന്ന് കൃത്യമായ നിർദ്ദേശം ഞാൻ നൽകിയതിനു ശേഷവും Remand Extension Report ൽ കടുത്ത ഭാഷയിൽ ജാമ്യത്തെ എതിർത്തത് ടിയാന്റെ റിമാൻറ് കാലാവധി ദീർഘിപ്പിക്കുന്നതിന് ഇടയായി. പ്രതി കുറ്റം ചെയ്തോ എന്ന് സംശയകരമായ സാഹചര്യം നിലനിൽക്കുന്നതാണെങ്കിൽ അതിൻറെ ആനുകൂല്യം പ്രതിക്ക് ലഭിക്കേണ്ടതാണ് എന്ന അടിസ്ഥാനപരമായ നീതിബോധം പോലീസ് ഓഫീസർമാർക്കുണ്ടാക്കേണ്ടതാണ്. ഇക്കാര്യത്തിൽ എസ്.ഐയുടെ ഭാഗത്ത് നിന്നും വീഴ്ചയുണ്ടാകാനുള്ള കാരണം എ.എസ്.ഐ ഉണ്ണിക്കൃഷ്ണന്റെയും മറ്റും ഭാഗത്ത് നിന്നുമുണ്ടായ പ്രേരണയാണെന്ന് മനസ്സിലാകുന്നു.

4) താജുദ്ദീൻ നിരപരാധിയാണെന്ന നിലയിൽ കടുത്ത വിമർശനം social media യിൽ ഉണ്ടായപ്പോൾ, ടിയാനെ അറസ്റ്റ് ചെയ്യാനുമുണ്ടായ സാഹചര്യത്തെ പറ്റി പരാതിക്കാരി ക്യാമറക്ക് മുന്നിൽ സംസാരിച്ച് ആയത് social media യിൽ പ്രചരിപ്പിച്ചത് ന്യായീകരിക്കത്തക്കയാണെങ്കിലും അതിനു ശേഷം എസ്.ഐ. തന്നെ കേരള വിഷൻ ചാനലിൽ ക്യാമറക്ക് മുമ്പിൽ നടത്തിയ ദീർഘമായ സംഭാഷണം പോലീസ് ഓഫീസർമാരുടെ ഭാഗത്ത് നിന്നു ഉണ്ടാകാൻ പാടില്ലാത്ത വിധത്തിലുള്ളതും, തീർത്തും വൈകാരികവുമായ പ്രതികരണമായിപ്പോയി. ഞാൻ അന്വേഷണം ഏറ്റെടുത്തതിനു ശേഷം എസ്.ഐയുടെ ഭാഗത്ത് നിന്നുമുണ്ടായ മേൽ പ്രതികരണം അനവസരത്തിലുള്ളതും ഒഴിവാക്കേണ്ടതുമായിരുന്നു.”

17. Significantly, the recommendation to transfer the 2nd respondent, coupled with the recommendation for initiating Punishment Roll proceedings, is sufficient to establish the misconduct and dereliction of duty on his part. In light of these facts, the petitioners have approached this Court seeking compensation of Rs.1 Crore. This amount is claimed towards the mental shock, agony,



anguish, and pain suffered; the loss of employment; the subsequent incarceration in Qatar; and the severe loss of reputation and humiliation resulting from the illegal arrest and detention caused by respondents 2 to 4. Petitioners 2 to 5 further seek compensation of Rs. 10 lakhs each for the mental and physical harassment, shock, pain, anguish, and loss of reputation they suffered due to the ill-treatment inflicted by respondents 2 to 4. Their claim is supported by the principles laid down by the Supreme Court in **Nambi Narayanan S and Siby Mathews and others** [2018 (4) KHC 598] and **Nilabati Behera alias Lalita Behera v. State of Orissa and Others** [1993 SCC (Cri) 527].

18. Per contra, the 2<sup>nd</sup> respondent—whom the petitioners hold primarily liable for their catastrophic ordeal—has denied all allegations levelled against him. He submits that Crime No. 388/2018 was registered at Chakkarakkal Police Station under Section 392 IPC, based on a complaint filed by one Smt. Raghi C.K. regarding a gold-chain-snatching incident that occurred at 12:15 p.m. on 05.07.2018. He further asserts that, at the relevant time, he was the Station House Officer (SHO) having jurisdiction over the



area where the crime took place. According to him, based on the details received from the complainant and the examination of multiple CCTV footages, a person was initially identified as having committed the offence. These visuals were then sent to Kadirur Police Station, within whose jurisdiction the alleged offender was observed travelling after the incident. Accordingly, the SHO, Kadirur Police Station, showed the visuals to local residents, including the Mosque Committee Secretary, who identified the person in the visuals as V.K. Thajudeen, the 1<sup>st</sup> petitioner. Thereafter, petitioners 2 and 3 are stated to have also identified the individual in the visuals as the 1<sup>st</sup> petitioner. In that background, the respondent asserts that the resemblance was compelling. Finally, the *de facto* complainant and the witnesses in that case too identified the 1<sup>st</sup> petitioner as the chain snatcher.

19. Based on the evidence gathered, the 2<sup>nd</sup> respondent concluded that the 1st petitioner was the perpetrator. This conclusion was further corroborated by the Section 164 Cr.P.C. statement, wherein the *de facto* complainant unequivocally deposed that the 1st petitioner was the perpetrator. Further inquiry also established



details of the 1<sup>st</sup> petitioner's residential history: that he had previously resided near Subula Salam Masjid, Temple Gate Road, Saitharpally, and is currently residing at C.H. Nagar, Kadirur. Finally, the respondent asserted that the 4<sup>th</sup> respondent was on leave and was not present during the custodial interrogation of the 1<sup>st</sup> petitioner. The 2<sup>nd</sup> respondent asserts that the petitioner's signature was obtained only on official records pertaining to the arrest, such as the arrest memo and inspection memo, and not on blank papers as alleged. Furthermore, the properties allegedly seized from the petitioner have been produced before the CJM Court, Thalassery. The petitioner's Passport was also surrendered before the CJM as a mandatory pre-condition for granting bail, pursuant to the order dated 30.08.2018 in BA No. 5711 of 2018 of this Court.

20. After recording the arrest, the petitioner was produced before the CJM Court, Thalassery, and was remanded for 14 days. The respondent asserts that the petitioner did not raise any complaint of illegal arrest or torture before the CJM at the time of his production. The respondent arrested him on 11.07.2018 at 5:00 p.m. and was produced on the next day. This procedure was carried



out only after the petitioner had been identified by witnesses and was undertaken in good faith, based on the honest belief that he had committed the crime, following the completion of all necessary investigation formalities.

21. Subsequently, acting on a complaint by a relative of the petitioner, the investigation was entrusted to the 6<sup>th</sup> respondent. During the course of this investigation, the 6<sup>th</sup> respondent concluded that the alleged offence had been committed not by the 1<sup>st</sup> petitioner, but by one Sarath Valsaraj. Consequently, the 6<sup>th</sup> respondent took steps to remove the 1<sup>st</sup> petitioner from the array of accused in Crime No. 388/2018 of Chakkarakkal Police Station.

22. The 2<sup>nd</sup> respondent further reiterated that the arrest was conducted in good faith, and the petitioner was taken to the places of occurrence and other locations solely for the purpose of collecting evidence. He asserted that he had no malicious intention to portray the petitioner as a thief before the public. The investigation report was submitted before the CJM Court, Thalassery, while the Bail Application was under consideration. Based on this report, the CJM



Court initially rejected the petitioner's bail application. Ultimately, the 1<sup>st</sup> petitioner was granted bail by this Court.

23. The 2<sup>nd</sup> respondent admits that no recovery could be effected despite gathering evidence from various places following the arrest of the 1<sup>st</sup> petitioner. However, he denies that he resorted to any ill-treatment or torture against the 1<sup>st</sup> petitioner. This denial is substantiated by the fact that no such complaint was recorded before the CJM Court, Thalassery, or during the subsequent medical examination. The petitioner and his family filed several complaints before various authorities, including the Human Rights Commission, the State Commissions for Child Rights and Minorities, and higher police officials. However, none of these complaints documented any allegations of custodial torture or the use of third-degree methods. For these reasons, the respondent denies the subsequent claims of securing signatures on blank papers, subjecting to physical and mental torture, including stripping off, in the presence of respondents 2 and 4, and the resulting intolerable mental shock, agony, and trauma.



24. The 2<sup>nd</sup> respondent denied the allegation that petitioners 2 to 4 were taken to the police station in a police jeep. Furthermore, he denied the claims of police harassment during the midnight hours, both at the place of arrest and at Chakkarakkal Police Station. The denial (of torture) is supported by the absence of any formal complaint raised before the Magistrate. The 2<sup>nd</sup> respondent further asserted that his actions were bona fide in the course of discharging his official duties, and the arrest was recorded after exercising reasonable care and caution, based on the identification of the accused by the victim and other witnesses. As the 2<sup>nd</sup> respondent had no prior acquaintance with any of the petitioners, his actions are presumed to be fair, reasonable, and justified. Being the Investigating Officer, he submits that he acted with due diligence in the matter. It is submitted that the arrest of the petitioner, instead of Sarath Valsaraj, was an unfortunate incident which came to light only during the subsequent investigation conducted by the 6<sup>th</sup> respondent, but this error was neither willful nor driven by any oblique motive. Significantly, the petitioner has not alleged that the 2<sup>nd</sup> respondent introduced or fabricated any false documents during



the investigation to establish the prosecution's case. This fact alone demonstrates that he acted in good faith.

25. It is further stated that the 1<sup>st</sup> petitioner's subsequent arrest and detention in Qatar occurred approximately two months after he had reached his workplace in Qatar and was in connection with financial crime cases. However, the 2<sup>nd</sup> respondent has not produced any cogent evidence to prove such an allegation.

26. The 2<sup>nd</sup> respondent also seeks to establish his innocence by pointing out his limited service experience of only three years. He asserts that his service record is exemplary, citing appreciation letters he received on two occasions from the Director General of Police, North Zone, and the State Police Chief. He further attempts to establish the innocence of his co-respondents, respondents 3 and 4, by highlighting their unblemished and unbiased service records. He concludes that he has consistently taken earnest efforts to maintain a remarkable and healthy relationship between the general public and the police. The 2<sup>nd</sup> respondent further claimed that he has organised several camps to promote agricultural activities among the general public, specifically involving the accused persons in the



locality with the help of police personnel from Chakkarakkal Police Station. These efforts were intended to reform criminal minds and curb criminal attitudes among the youth, and they were proved successful, earning admiration and appreciation from higher police officials. The activities of Chakkarakkal Police Station also drew the attention of the Educational Department, Kerala. This recognition led to the adoption of Arogya Kayika Vidyabhasam (Health and Sports Education) as part of the school curriculum. Finally, he concluded that neither he nor his colleagues (respondents 3 and 4) had any intention to victimize or harass anybody.

27. The 6<sup>th</sup> respondent preferred a statement before this Court on 08.08.2019, as directed. In this statement, he attempted to justify the actions of the 2<sup>nd</sup> respondent by asserting that 'a very strange coincidence occurred: the petitioner's cell phone tower location was found at Azhiyur near Mahe, the place of occurrence of the other crime, on the date of occurrence.' However, this crucial contention was conspicuously absent from the earlier reports (Exts. P8 and P14) submitted by the 6<sup>th</sup> respondent before the CJM, Thalassery, and the Director General of Police. Despite this omission,



the 6<sup>th</sup> respondent continued to justify the 2<sup>nd</sup> respondent's actions and explain the nature of the investigation. It was only upon receiving a tip-off from the wife of the real culprit, conveyed to a Civil Police Officer, who was her classmate, that the true facts of the incident came into light. Following this information, the 6<sup>th</sup> respondent traced the tower location of the real accused at the spot on the date of occurrence, in order to cross-verify his statements, till he confessed to the offence. Thereafter, the two-wheeler and the stolen property were recovered pursuant to the confession. However, it was admitted that there had been a miscarriage of justice with respect to the petitioners, as a fallout of several strange coincidences strong enough to keep even the seasoned officers awestruck, and it is stated that the investigation agency took remedial measures. The media response came only after the mistake was admitted in the case records.

28. The authorities admitted that, although the 2<sup>nd</sup> respondent's findings were incorrect, that was the outcome of the extremely complicated situation and were made only in good faith. Furthermore, it was stated that there was nothing to indicate any



deliberate or malicious intention on the part of the 2<sup>nd</sup> respondent to implicate the petitioner. However, going by Exts.P8 and P14, I am of the view that the 6<sup>th</sup> respondent has completely deviated from his earlier findings; thereby the said statements given by the 6<sup>th</sup> respondent are not trustworthy, and the statement is declined.

29. I have heard Sri. Asaf Ali learned counsel for the petitioners, Sri.Grashious Kuriakose, learned Additional DGP instructed by Sri. C.K.Suresh, Sri.Ajeesh K. Sasi, learned counsel appearing for respondents 2 to 4 and learned *Addl. Public Prosecutor* for respondents 5 & 6.

30. Going by the facts mentioned above, it can be seen that it is a matter seeking compensation against the illegal arrest and detention of an innocent person. Hence, the sole question for consideration is with respect to the invocation of jurisdiction under Article 226 of the Constitution of India in awarding compensation, as sought in the writ petition or to direct the petitioners to approach the Civil Court for such remedy.

31. If compensation is to be granted, this Court must necessarily invoke its jurisdiction under public law remedy, which lies



against the State and its instrumentalities when there is a violation of a Constitutional or public rights. This remedy has been evolved under the Constitution to ensure that the exercise of public power remains within the bounds of legality and fairness. Only courts exercising jurisdiction under Articles 32 and 226 of the Constitution are empowered to issue appropriate directions or orders, including the grant of compensation, for the enforcement of the fundamental and other legal rights of citizens.

32. This jurisdiction is exercised only in certain peculiar circumstances, as it is well settled that the wrongful arrest and detention of a person constitutes not merely a private wrong, but a public wrong resulting from the abuse of State power. Such violations strike at the very core of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Consequently, the remedy lies not in the domain of private law, but in the field of public law, where courts exercising jurisdiction under Articles 32 and 226 are empowered to ensure the fundamental rights of citizens and to award appropriate compensation for the established violation. The object of granting such compensation is



twofold: first, to recompense the individual for the harm suffered, and second, to ensure public accountability by reaffirming the rule of law, which mandates that the State and its instrumentalities act within the bounds of legality. By awarding compensation, the court affirms that the State cannot act in derogation of the rights guaranteed by the Constitution and that any abuse of power resulting in the violation of fundamental rights must attract public accountability. This remedy therefore serves a dual objective: to provide effective redressal to the victim and to deter similar violations by State authorities in the future.

33. On the other hand, the civil court remedy operates in a distinct field, designed to enforce private rights and obligations arising under tort, contract, or other branches of private law. While it provides relief for individual civil wrongs between private parties, a civil law action is not an adequate or appropriate remedy where the violations stem from State action infringing fundamental human rights. In such cases, the wrong attains the status of a constitutional violation, and the liability of the State arises under public law.



34. The Apex Court in **Rudul Sah v. State of Bihar and Another** [1983 (4) SCC 141], **Bhim Singh, MLA v. State of J & K** [1985 (4) SCC 677] and **Nilabati Behera** supra held, the award of compensation, in cases where a constitutional right is infringed by the State or its instrumentalities, is the invocation of public law remedy. This remedy is distinct from and in addition to remedies available under private law, and it is intended to enforce the constitutional responsibility of the State for the violation of fundamental rights. Its purpose is to ensure that the State does not escape responsibility for the unlawful acts of its officers. It operates not merely as a measure of damages, but as a constitutional mechanism to enforce the accountability of public authorities and to deter future violations.

35. In order to determine the applicability of public law remedy in this case, it is highly essential to reevaluate the aforestated facts involved in this case.

36. Going by the facts, it can be seen that even the petitioner's doubt with respect to the mismatch of identity of the person seen in the CCTV footage with that of the petitioner was completely ignored.



Had the afore respondents taken a little care and caution in reanalysing the materials collected by them, especially after the contentions of the rest of the petitioners with respect to the impossibility of the involvement of the 1<sup>st</sup> petitioner in the act, such an unfortunate incident would have been avoided.

37. Such findings are entered on the premise of the report submitted before the Chief Judicial Magistrate Court, Thalassery, by the Deputy Superintendent of Police, which are produced as Exts.P8, P10, and the enquiry report submitted by the Police Chief for initiating Departmental action against the 2<sup>nd</sup> respondent as per Ext.P14.

38. This Court has also considered the contentions of the learned counsel for the petitioners on the basis of dictum laid down by the Apex Court in **Nilabati Behera** supra wherein it was held that convicts, undertrials and prisoners do not forfeit their fundamental rights under Article 21 except to the extent lawfully restricted. The State bears a strict duty of care to ensure that no person in custody is deprived of life or liberty except in accordance with law. Any



violation of this obligation renders the State accountable, and the defence of sovereign immunity is unavailable.

39. Similarly, in **Rudul Sah** supra, the Apex Court held, where the violation of right to personal liberty under Article 21 is undisputed, the court cannot confine itself merely to ordering release from illegal detention. To withhold compensation under these circumstances would vitiate the guarantee afforded by Article 21 of the Constitution. One of the effective means of securing compliance with that guarantee is to hold the State liable in monetary terms for the unlawful act of its officers. The award of compensation thus serves as a constitutional remedy to vindicate the right to liberty and to ensure that the State repairs the harm caused by its instrumentalities, though it may later proceed against the erring officials.

40. In **Nambi Narayan** supra, the Apex Court observed that compensation may be awarded against the State as an effective public law remedy for violation of the fundamental right under Article 21 by a public servant. The quantum of such compensation depends



on the facts of each case and does not preclude the claimant from pursuing additional remedies under private or criminal law.

41. In **People's Union for Civil Liberties v. Union of India and Another** [1997 KHC 780] it was held by the Apex Court that the award of compensation under Article 32 or 226 is a public law remedy based on the State's strict liability for violation of fundamental rights and that the defence of sovereign immunity is inapplicable in such cases. This remedy is distinct from and in addition to private law damages, though any amount awarded may be adjusted against the compensation granted in a civil suit.

42. In **Mehamood Nayyar Azam v. State of Chattisgarh and others** [2012 KHC 4411] it was held that any form of torture or cruel, inhuman or degrading treatment would fall within the ambit of Article 21 of the Constitution, whether it occurs during the investigation, interrogation or otherwise. Allowing police to violate fundamental rights of such persons would amount to anarchy and lawlessness, which cannot be permitted in a civilised society. It was also observed that the relief of compensation granted under Article 32 or 226 for violation of Article 21 is a remedy in public law, founded



on the State's strict liability for breach of fundamental rights. Such compensation is awarded not as damages in a private law action, but as exemplary relief to enforce accountability for the failure of the State to discharge its public duty to protect the rights guaranteed under the Constitution.

43. In **Bhim Singh MLA v. State of Jammu and Kashmir and others** [1985 4 SCC 677], it was held in the light of Article 21 that the case of arrest with mischievous and malicious intent, the victim can be compensated by awarding suitable monetary compensation.

44. Similarly, in **Vibin P.V. v. State of Kerala** [2013 1 KHC 267], a Division Bench of this Court held that the victims are entitled to get compensation under public law in addition to remedies under private law.

45. On the other hand, the respondent also came up with certain decisions of this Court as well as Apex Court in support of the contentions. However, the summary of the same is not in favour of the respondents, which are as follows :



46. In **Mahabir and others v. State of Haryana** [2025 SCC OnLine SC 184] the Apex Court held that in cases where there can be no dispute of facts, the constitutional courts have the power to award compensation in a case a person has been deprived of his life and liberty without following the procedure established by law. The case in hand cannot be distinguished from the dictum laid down in this case.

47. In **Gireesh Kumar v. State of Kerala** [2024 KHC OnLine 571] wherein the DB of this Court held that the accused was forced to undergo incarceration for ten years, that too on a death row only due to systemic failure of different limbs of State Apparatus. For meeting the ends of justice, this Court directed the State to pay an amount of Rs.5 lakhs as compensation to the accused on the basis of Article 21 of the Constitution of India.

48. In **Baburajan v. State of Kerala** [2025 (3) KHC 629] it was held by this Court that the Constitutional courts, being the protectors of civil liberties of citizens, have not only the power and jurisdiction but also an obligation to direct the State to award monetary compensation to the accused, in appropriate case, for the



infringement of his life and liberty guaranteed under Article 21 due to wrongful prosecution, detention or conviction.

49. From the above discussion, it appears to my conscious that courts are of the consistent view that when the State fails to ensure the rights guaranteed under Article 21, it cannot evade responsibility by raising the plea that, the impugned act was unauthorised or beyond the official duty of the offending official. This position has been clarified by the Apex Court in **Chairman, Railway Board and others v. Chandrimadas** [(2000) 2 SCC 467] wherein the Apex Court reiterated that the State is vicariously liable for the acts of its employees even when the wrongful act is committed in the course of performance of official duty and that such liability extends to violation of fundamental rights. The court found that where public servants, acting under the authority of State infringes the rights guaranteed under Article 21, the State cannot evade responsibility on the plea that the act was unauthorised or beyond their duty.

50. Where public functionaries are involved and the matter relates to the violation of fundamental rights or enforcement of public duties, the remedy would still be available under public law,



notwithstanding the fact that a suit could be filed for damages under private law. This has been clarified by the Division Bench of this Court in **Gireesh Kumar** supra.

51. The principle equally applies to cases of custodial violation where the State must answer for the misconduct of its officers and make monetary amends for the breach of the citizen's indefeasible right to life and liberty.

52. The case in hand is a fit case to award compensation as stated above, since the 1<sup>st</sup> petitioner was arrested when he was on 15 days' leave for conducting his daughter's marriage and put behind bars in judicial custody for 54 days. Thereafter, when he reached back at his place of employment, he was again imprisoned for 23 days, allegedly for overstaying. Though the 2<sup>nd</sup> respondent asserted in his counter affidavit that such imprisonment was on the charge of certain financial fraud, it cannot be accepted in the absence of any valid and material evidence. There is no specific answer given by the 2<sup>nd</sup> respondent with respect to defaming the 1<sup>st</sup> petitioner in the society for a crime which was not committed by him, by taking him to the public places and houses of his near relatives and also



subjecting him to both public and media trial. These aspects are expressly mentioned in Ext.P14 report of the Deputy Superintendent of Police submitted to the District Police Chief for initiating Departmental action against the 2<sup>nd</sup> respondent. The family members also suffered similar humiliation, especially when the 4<sup>th</sup> petitioner's marriage was fixed on a near date.

53. In the above circumstances, this writ petition is disposed of by granting compensation to the tune of Rs.10 lakhs to the 1<sup>st</sup> petitioner and Rs.1 lakh each to the petitioners 2 to 5, the wife and children of the 1<sup>st</sup> petitioner, who have suffered mental agony, trauma, defamation and harassment at the hands of respondents 2 to 4. This direction is issued with the intention of ensuring that police officers do not indulge in such irresponsible conduct and to serve as a deterrent against such actions by other officials in the future.

54. The award of compensation is restricted to Rs.10 lakhs for the 1<sup>st</sup> petitioner and Rs.1 lakh each for the other petitioners, only as a measure of self-restraint while exercising the jurisdiction under Article 226, invoking public law remedy. However, that will not



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preclude the petitioners from availing civil law remedies against the erring officers for the damages sustained by them. The State is at liberty to recover the said amount from respondents 2 to 4, if it deems fit, after adopting due procedure.

The Writ Petition is disposed of accordingly.

Sd/-

**P.M.MANOJ  
JUDGE**

ttb



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APPENDIX OF WP(C) 9494/2019

PETITIONERS' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE ARREST MEMO DATED 11.7.2018.  
EXHIBIT P2 TRUE COPY OF THE FIR NO.358/2018 DATED 5.7.2018.  
EXHIBIT P2 TRUE COPY OF THE COMPLAINT DATED 5.7.2018 OF MRS. RAGI  
EXHIBIT P3 TRUE COPY OF THE REMAND REPORT  
EXHIBIT P4 TRUE COPY OF THE CUSTODY ORDER DATED 16.7.2018 MADE IN CMP NO.3796/2018 ON THE FILE OF THE COURT OF THE CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY.  
EXHIBIT P5 TRUE COPY OF THE BAIL ORDER DATED 30.08.2018 MADE IN BA.5711/2018 OF THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.  
EXHIBIT P5 (A) TRUE COPY OF THE BAIL ORDER DATED 16.7.2018 MADE IN CRL.M.P.3745/2018 OF THE CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY DISMISSING THE BAIL APPLICATION.  
EXHIBIT P5 (b) TRUE COPY OF THE SECOND BAIL ORDER DATED 23.7.2018 MADE IN CRL.M.P. 3935/2018 OF THE SESSIONS COURT, THALASSERY DISMISSING THE BAIL APPLICATION.  
EXHIBIT P5 (C) TRUE COPY OF THE BAIL ORDER DATED 03.08.2018 MADE IN CRL.M.C.1021/2018 OF THE SESSIONS COURT, THALASSERY DISMISSING THE BAIL APPLICATION.  
EXHIBIT P6 TRUE COY OF THE IMPRISONMENT CERTIFICATE DATED 16.11.2018 ISSUED BY SUPERINTENDENT, SUB JAIL, THALASSERRY.  
EXHIBIT P7 A TRUE COPY OF THE REPRESENTATION DATED 16.7.2018 GIVEN TO THE HON'BLE CHIEF MINISTER.  
EXHIBIT P8 A TRUE COPY OF THE REPORT DATED 22ND OCTOBER 2018.  
EXHIBIT P9 A TRUE COPY OF THE REPRESENTATION DATED 19.9.2018.  
EXHIBIT P10 A TRUE COPY OF THE REMAND REPORT DATED NIL OF MR. SARAT VALSARAJ.  
EXHIBIT P11 A TRUE COPY OF THE NEWS REPORT PUBLISHED BY MALAYALA MANORAMA DATED 21.11.2018.



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EXHIBIT P11(A) A TRUE COPY OF THE NEWS REPORT PUBLISHED BY MADHYAMAM DAILY DATED 21.11.2018.

EXHIBIT P12 TRUE COPY OF THE ARABIC VERSION OF THE CERTIFICATE DATED 27TH JANUARY 2019 ISSUED BY INTERIOR MINISTRY, QATAR.

EXHIBIT P12(A) TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P12

EXHIBIT P13 A TRUE COPY OF THE REPORT DATED 15.10.2018 FILED BY THE 6TH RESPONDENT BEFORE THE COURT OF CHIEF JUDICIAL MAGISTRATE, THALASSERY.

EXHIBIT P14 A TRUE COPY OF THE REPORT DATED 15.10.2018 FILED BY THE 6TH RESPONDENT BEFORE THE COURT OF CHIEF JUDICIAL MAGISTRATE, THALASSERY.

RESPONDENT EXHIBITS

EXHIBIT R2 (a) : TRUE COPY OF THE APPRECIATION LETTER NO.A2/20880/2017/NZ DATED 13/10/2017 ISSUED BY DIRECTOR GENERAL OF POLICE, NORTH ZONE, KOZHIKODE COMMENDING ON THE HANDLING OF LAW AND ORDER SITUATION BY THIS RESPONDENT NO.2.

EXHIBIT R2 (b) : TRUE COPY OF THE APPRECIATION LETTER DATED 10/04/2017 ISSUED BY THE STATE POLICE CHIEF, KERALA TO THIS RESPONDENT NO.2.

EXHIBIT R2 (c) : TRUE COPY OF THE COMMENDATION LETTER DATED 24/07/2017 ISSUED BY DIRECTOR GENERAL OF POLICE AND STATE POLICE CHIEF TO THIS RESPONDENT NO.2

EXHIBIT R2 (d) : TRUE COPY OF THE COMMENDATION CERTIFICATE DATED 20/08/2011 ISUED BY THE DIRECTOR GENERAL OF POLICE, KERALA IN FAVOUR OF THE 3RD RESPONDENT.