

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 12TH DAY OF SEPTEMBER 2024 / 21ST BHADRA, 1946

WP(CRL.) NO. 1011 OF 2024

PETITIONER:

VAISAKH @ HARI
AGED 36 YEARS
S/O. RADHAKRISHNAN NAIR, TC 10/217, AMBIKAVILASOM
VEEDU, NEAR GOVERNMENT PRESS, MANNANTHALA, MANNANTHALA
WARD, ULLLOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT.,
PIN - 695011

BY ADVS.
AHALYA PRAKASH K.V.
K.K.SUBITHA
MEGHANA MANOJ

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY OF LAW DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM DISTRICT, KERALA - 695
001, PIN - 682031
- 2 THE LAW SECRETARY
LAW DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM DISTRICT, KERALA, PIN - 695001
- 3 THE SHERISTADAR
THE COURT OF ADDITIONAL SESSIONS JUDGE-1,
THIRUVANANTHAPURAM, KERALA, PIN - 695001

SRI. C.N. PRABHAKARAN (PP)

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
12.09.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



“C.R.”

BECHU KURIAN THOMAS, J.

W.P.(Crl.) No. 1011 OF 2024

Dated this the 12th day of September, 2024

JUDGMENT

Petitioner seeks a direction to provide him with readable copies of the depositions of witnesses in S.C. No.76/2010 on the files of the Additional Sessions Court-I, Thiruvananthapuram, and also its official translations.

2. Petitioner was convicted and sentenced to undergo imprisonment for life under Section 302 IPC as per judgment in the aforementioned sessions case, which was affirmed by this Court in Crl.Appeal No.787/2016. Petitioner intends to prefer an appeal before the Supreme Court. Since copies of the depositions of the trial court are indecipherable, he applied to the Sessions Court to provide him with legible copies of the depositions. By Ext.P2 communication dated 11.06.2024, the said request was refused, stating that the rules do not permit the issuance of readable copies.

3. I have heard Smt. Ahalya Prakash. K.V., learned counsel appearing for the petitioner and Sri. C.N. Prabhakaran, learned Public Prosecutor.

4. When the case came up for consideration, this Court directed the Registry of the High Court to verify whether readable copies were



available in the file relating to the criminal appeal. Pursuant to the said direction, it was informed by the Registrar (Judicial) that after the appeal was disposed of, the entire trial court records were returned to the trial court on 07.10.2021.

5. A readable copy of the deposition is prepared in original when the trial court files are transmitted to the High Court as per Rule 262 of the Criminal Rules of Practice, 1982. The readable copies are prepared to enable the appellate or revisional courts to decipher the depositions without difficulty. Since the depositions written by the Presiding Officers of the Criminal Courts are many a times illegible, it is essential to prepare readable copies, before transmitting the files to the appellate court.

6. In the decision in **Rajmohan Pillai J. v. CBI Kerala** [2016 (3) KLT 665], it was observed by a learned Single Judge that, readable copies are prepared by the Registry for the advantage of the Appellate Court especially when the depositions are not easily decipherable. The readable copies are prepared after the proceedings in the Trial Court are over and when the file is prepared for transmission to the Appellate Court. It was observed in the aforesaid case that since readable copies are not copies of a proceeding or a document filed in or in the custody of the Court, they will not fall within the category of documents that are part of the proceeding of the Trial Court nor a document filed in or in the custody of the Court. It was also observed that certified copies can be



issued only in relation to those records or documents that are original and which form part of the records of the case and not a copy of the original.

7. However, in a later decision in **Sudheer T. M. v. State of Kerala** [2017 (1) KLD 687], another learned Single Judge directed that a certified copy of the readable copy of the depositions be provided upon, noticing that prejudice would result, if such a copy is not served.

8. In the instant case, though readable copies prepared in original would be available in the files re-transmitted to the trial court, the request for certified copies of such documents was denied. In these modern times, when the right to information has gained statutory recognition, this Court is of the view that in appropriate cases, readable copies, if prepared, must be given to parties on their application, especially when the original deposition is not readable. This is especially so, when such readable copies have been prepared and have become part of the records of the court after their use in the High Court and re-transmitted to the trial court. No purpose would be served in denying such copies that have already been prepared and are part of the records.

9. Procedure has always been regarded as the handmaid of justice. Non-decipherable depositions would not advance the cause of justice and on the other hand, such illegible copies of depositions can cause prejudice to an accused. The ultimate lookout of courts is the dispensation of justice. In that process, hyper technicalities ought not to



retard the progress being achieved in all spheres. If readable copies have already been prepared, it does not advance the cause of justice by refusing to provide a copy of such readable copies to the parties. Providing such readable copies will not prejudice the court as well. Hence, when readable copies are prepared and the same have been used or even made available to the appellate courts for use, there is no reason to deny issuing a certified copy of such readable copies, when applied for, especially when the original deposition is illegible. However, this does not mean that the parties can insist on readable copies being prepared and provided to them by the court. The benefit can be available only if such readable copies are already prepared and their originals are available in the files.

10. In the instant case, since the readable copies of the depositions have already been prepared and if the originals are available in the file, the petitioner ought to be given certified copies of such readable depositions. As it was submitted that the entire records have been already re-transmitted to the trial court, the petitioner ought to be given certified copies of the readable copies of the depositions from the said court, if applied for.

11. In this context, this Court is compelled to observe that with the advent of modern technology, including artificial intelligence, it is high time that the trial courts are equipped with sufficient infrastructure to take down the deposition of witnesses by resorting to the latest



technology. Though writing depositions in own handwriting may enable the court in its analytical process, the benefits of using modern technology will far outweigh such limited advantages. The laborious and time-consuming process of Judges writing down witness depositions is indeed archaic and even stressful. The plight of the judicial officers indulging in writing down long depositions, cannot be ignored, especially when advanced technologies are available.

12. Rule 56A(2)(b) of the Criminal Rules of Practice, 1982 permits the evidence of each witness to be taken down through dictation onto a mechanical or electronic device. Section 311 of the Bharatiya Nagarik Suraksha Sanhita, 2023 also permits the Sessions Courts to record evidence of witnesses by dictation in open court. In fact, by Circular No.3/3017 dated 07-08-2017, the High Court of Kerala had permitted all Presiding Officers of all Courts in the State to record the evidence of witnesses through dictation in open court.

13. However, technology has advanced even further. From recording the evidence of witnesses through the dictation of the Presiding Officer, technology is now available to convert speech to text simultaneously as the evidence is being taken. If such modern technology is applied in courts, delays while recording the evidence can be avoided. The concept of digital recording and transcription of depositions, or the use of speech-to-text software or similar technologies are required to be implemented in the trial courts without further delay.



Due to the long hours spent in taking down depositions, it is only normal for handwritten texts to become illegible or indecipherable. Dictating the evidence by the Presiding Officer on the basis of the evidence given by the witnesses also is time-consuming. These may affect the administration of justice and can even prejudice the trial, if in case even the Judge is unable to decipher what is written. Hence, it is time that Courts, especially the trial courts, update their resources to include advanced technologies. Appropriate training must also be provided to the Judicial Officers to enable them to use the advantages of technology.

14. The Registry of the High Court, must earnestly explore the possibility of equipping the trial courts in the State, with such advanced technologies to bring a change to the archaic practices. Appropriate training must also be provided through the Judicial Academy to promote the use of such modern technologies.

15. Be that as it may, there will be a direction to the Sessions Court, Thiruvananthapuram to provide certified copy of the original readable depositions in S.C. No.76/2010 on the files of the Additional Sessions Court-I, Thiruvananthapuram as and when applied for, provided, the original readable copies are available in the file.

The above Writ Petition is disposed of.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**



APPENDIX OF WP(CRL.) 1011/2024

PETITIONER EXHIBITS

Exhibit P1

**THE TRUE COPY OF THE APPLICATION REQUEST
SENT TO THE ADDITIONAL SESSION COURT 1
TRIVANDRUM FOR READABLE COPIES OF THE
DEPOSITION OF WITNESS IN S.C NO : 76/2010
DATED 26.04.2024**

Exhibit P2

**THE TRUE COPY OF THE LETTER ISSUED BY THE
THIRD RESPONDENT DATED 11.06.2024**